

**XIII. Issue 30(a) - Should Intermedia be required to designate a “home” local tandem for each assigned NPA/NXX?**

**A. Positions of the Parties**

BellSouth contends that Intermedia must designate a home local tandem for each Intermedia NPA/NXX so that BellSouth and other carriers will be able to correctly route traffic to Intermedia endusers. BellSouth claims that all other telecommunications providers must know where Intermedia homes its NPA/NXX codes so that necessary translations and routing instructions can be installed to guarantee delivery of calls to Intermedia’s endusers.

Intermedia asserts that BellSouth’s proposed language would restrict Intermedia’s network design by requiring Intermedia to designate home local tandems for each NPA/NXX and to establish points of interconnection at all access tandems where Intermedia homes NPA/NXXs. Intermedia claims that BellSouth seeks to restrict Intermedia’s network design in the aforementioned manner because this interconnection arrangement is the most convenient and cost-effective for BellSouth. Intermedia further avers that Intermedia and BellSouth have had no problem completing calls to each other without the imposition of the aforementioned interconnection arrangement.

**B. Deliberations and Conclusions**

In resolving Issue 26, the Arbitrators determined that calls to a NPA/NXX in a local calling area outside the local calling area where the NPA/NXX is homed should be treated as intrastate, interexchange access. The Arbitrators now find that Intermedia must designate a home local tandem for each NPA/NXX so that the parties can utilize the call rating solution ordered in Issue 26. The designation of home local tandem for each Intermedia NPA/NXX is necessary to allow the parties to require reciprocal compensation payments, which are appropriate if a call terminates

in the local calling area where the NPA/NXX is homed, or access charges, which are appropriate if the traffic terminates in a local calling area other than where the NPA/NXX is homed. The choice of a home local tandem necessarily defines a BellSouth local calling area, which in turn will define whether reciprocal compensation or access charges are due for a call, even when Intermedia uses the same NPA/NXX codes in several BellSouth local calling areas. Based on these findings, the Arbitrators voted unanimously to require Intermedia to designate a home local tandem for each assigned NPA/NXX.

**XIV. Issue 30 (b) - Should Intermedia be required to establish points of interconnection to BellSouth access tandems within the LATA on which Intermedia has NPA/NXXs homed?**

**A. Positions of the Parties**

BellSouth contends that Intermedia must designate a home local tandem for each Intermedia NPA/NXX so that BellSouth and other carriers will be able to correctly route traffic to Intermedia's endusers. BellSouth further contends that it "should not be obligated to handle Intermedia's traffic on a tandem basis without being paid to do so."<sup>97</sup>

Intermedia asserts that BellSouth's proposed language restricts Intermedia's network design by requiring Intermedia to designate home local tandems for each NPA/NXX and to establish points of interconnection at all access tandems where Intermedia homes NPA/NXXs. Intermedia claims that BellSouth seeks to restrict Intermedia's network design in the aforementioned manner because this interconnection arrangement is the most convenient and cost-effective for BellSouth. Intermedia further avers that Intermedia and BellSouth have had no problem completing calls to each other without the imposition of the aforementioned interconnection arrangement.

**B. Deliberations and Conclusions**

The Arbitrators find that Issue 30(b) is materially similar to Issue 29. Accordingly, the Arbitrators adopt the same conclusions. Requiring Intermedia to interconnect to each access tandem in the rate center where Intermedia homes NPA/NXXs renders MTAs effectively useless.

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<sup>97</sup> Transcript of Proceeding, September 19, 2000, v. IA, p. 23.

As previously stated, Intermedia should have flexibility in designing its network, but BellSouth should receive just and reasonable compensation for the cost of providing interconnection services to Intermedia. Thus, the Arbitrators voted unanimously that Intermedia should not be required to interconnect at each access tandem in the rate center where Intermedia NPA/NXXs are homed. Moreover, if Intermedia does not interconnect at each BellSouth access tandem within the LATA on which Intermedia homes NPA/NXXs, BellSouth should receive just and reasonable compensation for additional tandem switching and transport costs incurred that are not reflected in the negotiated reciprocal compensation rate.



- XV. Issue 39(a) - What are the appropriate charges for Interconnection trunks between the parties' frame relay switches?**
- (b) What are the appropriate charges for frame relay network-to-network Interface ("NNI") ports?**
  - (c) What are the appropriate charges for permanent virtual circuit ("PVC") segments (i.e., Data Link Connection Identifier ("DLCI") and Committed Information Rates ("CIR"))?**
  - (d) What are the appropriate charges for requests to change a PVC segment or PVC service order record?<sup>98</sup>**

**A. Positions of the Parties**

BellSouth maintains that the appropriate charges for all aspects of frame relay interconnection and service, including changes for existing service, are found in BellSouth's Interstate Access Tariff. Additionally, BellSouth claims that the parties agreed that Intermedia would provide BellSouth with a factor representing the Percent Local Circuit Use ("PLCU"), which indicates the percentage of traffic expected to be local versus long distance. BellSouth agreed to reimburse Intermedia fifty percent (50%) of the PLCU to the extent that Intermedia uses the trunks, NNI ports, or DLCI and CIR entirely for intraLATA frame relay service. Otherwise, Intermedia is responsible for the entire trunk charges.

Intermedia states that the rates and charges for interconnection and compensation for local traffic must reflect incremental cost as mandated by the FCC Rules and Sections 251(c)(2) and 252(d)(1) of the Act. Intermedia notes that even though the TELRIC rules have been challenged in the courts, the Arbitrators have employed their own long-run incremental costing model in setting rates for interconnection and reciprocal compensation in the past and should do so for frame relay service. Intermedia argues that it is inappropriate to use BellSouth's tariff rates for

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<sup>98</sup> The aforementioned items are components of frame relay service, which is a form of packet switching. The trunks between frame relay switches and the NNI ports provide carrier-to-carrier connectivity of frame relay networks. The DLCIs and CIRs define the path and capacity of virtual circuits over which traffic (or frames of data) traverse the frame relay network.

frame relay interconnection and service. Instead, Intermedia suggests that the Arbitrators should set interim rates at fifty percent (50%) of BellSouth's tariffed frame relay rates, which is the difference between BellSouth's UNE rates and the tariff rates for services with equivalent functionality. Intermedia further suggests that the rates be subject to a true-up at the time final rates are established.

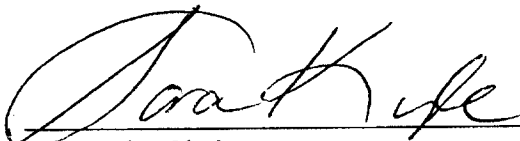
#### **B. Deliberations and Conclusions**

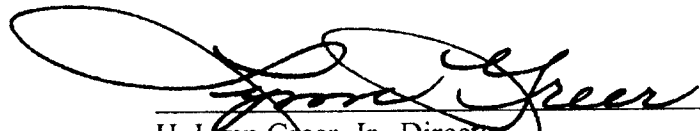
When ruling on Issue 25, the Arbitrators determined that Section 251(c)(3) of the Act does not require BellSouth to provide frame relay elements at TELRIC rates. Absent an affirmative finding that frame relay elements, such as those addressed in Issue 25, are network elements subject to the provisions of Section 251(c)(3) of the Act, TELRIC rates are neither required nor appropriate. Accordingly, the Arbitrators voted unanimously to adopt BellSouth's current tariff rates as the charges for interconnection trunks, NNI ports, PVC segments, DLCI, and CIR. The Arbitrators also agreed that the parties may voluntarily negotiate rates for frame relay elements that differ from existing tariff rates.

## XVI. Ordered

The foregoing Interim Order of Arbitration Award reflects resolution of Issues 2(a), 3, 6, 7, 10, 12, 13(a), 18(c), 25, 26, 29, 30, and 39. The Arbitrators will address the only outstanding issue, Issue 48, at a later date.<sup>99</sup> All resolutions contained herein comply with the provisions of the Telecommunications Act of 1996 and are supported by the record in this proceeding.

TENNESSEE REGULATORY AUTHORITY,  
BY ITS DIRECTORS ACTING AS  
ARBITRATORS

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary

<sup>99</sup> Since the February 6, 2001 deliberations, BellSouth has settled an issue regarding performance measurements and enforcement mechanisms with ITC^DeltaCom Communications, Inc. *See DeltaCom, Joint Motion for the TRA to Approve the Parties Settlement of Petition Issue 1(a)*. Also, BellSouth, MCIMetro Access Services, LLC, and Brooks Fiber Communications of Tennessee, Inc. agreed in a Pre-Arbitration Conference that they would defer a similar issue to the Generic Docket on Performance Measurements (Docket No. 01-00193). Neither Intermedia nor BellSouth have, to date, informed this agency of any similar actions occurring in this Docket. *See In re: Petition of MCI Metro Access Services, LLC, and Brooks Fiber Communications of Tennessee, Inc. for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996*, Docket No. 00-00309, Transcript of Proceedings, March 20, 2001, p.4.



**EXHIBIT NO. AWG -4**  
**ITC^DeltaCom Arbitration Order**  
**Docket No. 99-00430**

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**August 31, 2000**

**IN RE:**

**PETITION FOR ARBITRATION OF ITC^DELTACOM  
COMMUNICATIONS, INC. WITH BELL SOUTH  
TELECOMMUNICATIONS, INC. PURSUANT TO  
THE TELECOMMUNICATIONS ACT OF 1996**

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**DOCKET NO.  
99-00430**

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**SECOND INTERIM ORDER OF ARBITRATION AWARD**

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This matter came before the Directors of the Tennessee Regulatory Authority ("the Authority") acting as Arbitrators on August 1, 2000 upon the filing of final best offers by ITC^DeltaCom Communications, Inc. ("DeltaCom") and BellSouth Telecommunications, Inc. ("BellSouth") and the filing of a *Motion for Reconsideration* by BellSouth.

On June 11, 1999, DeltaCom filed a petition requesting the Authority arbitrate the interconnection agreement between it and BellSouth. The Directors accepted DeltaCom's petition for arbitration on June 29, 1999, appointed themselves as Arbitrators, and directed the General Counsel or his designee to serve as the Pre-Arbitration Officer. BellSouth responded to the petition on July 6, 1999. The Authority heard testimony related to the unresolved issues at a three-day hearing held from November 1, 1999 through November 3, 1999. The Arbitrators deliberated at a public meeting on April 4, 2000. The Arbitrators resolved most of the issues, but ordered the parties to submit final best offers on issues 4(a), 5 and 8(e) within thirty (30) days of receipt of the transcript by the Authority and issue 1(a) within forty-five (45) days of receipt of the transcript by the Authority.

DeltaCom filed final best offers as to issues 4(a), 5 and 8(e) on May 4, 2000, amended final best offers as to issues 4(a), 5, and 8(e) on May 12, 2000, and final best offer as to issue 1(a) on May 22, 2000. BellSouth filed final best offers as to issues 4(a), 5 and 8(e) on May 8, 2000, final best offer as to issue 1(a) on May 22, 2000, and a response to DeltaCom's final best offers on July 27, 2000.<sup>1</sup> In addition, BellSouth filed a *Motion for Reconsideration* on May 22, 2000. DeltaCom filed a response to the motion on June 8, 2000, and BellSouth filed a reply to the response on July 26, 2000.

### **I. Motion for Reconsideration**

Filed on May 22, 2000, BellSouth's *Motion for Reconsideration* was directed at the Arbitrator's April 4, 2000 public deliberations, not at any written order. *The Rules of Practice and Procedure Governing Proceedings under Section 252 of the Federal Telecommunications Act of 1996*<sup>2</sup> do not specifically provide for reconsideration. Moreover, there are no other rules concerning motions for reconsideration of arbitrators' rulings under the Federal Telecommunications Act of 1996.

Two rules, however, do provide guidance. Rule 1220-5-3-.14 --*Arbitration Awards*, of *The Rules of Practice and Procedure Governing Proceedings under Section 252 of the Federal Telecommunications Act of 1996* states in pertinent part: "All awards shall be in **writing** and shall state the issue and the manner in which the issue has been resolved." (Emphasis added). The *Rules of Practice and Procedure*, Chapter 1220-1 (which were adopted on June 20, 2000 and will become effective on September 13, 2000) and specifically Rule 1220-1-2-.20 --

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<sup>1</sup> The Authority did not request responses.

<sup>2</sup> Both parties orally agreed to abide by these rules at the Pre-Arbitration Conference held on August 4, 1999, and on August 18, 1999 and on October 11, 1999, DeltaCom and BellSouth respectively filed pleadings confirming such agreement.

*Petitions for Reconsideration* requires that any petition for reconsideration shall be filed within fifteen (15) days after the entry of an order, and should be directed at the written order memorializing the decision made during the deliberations. Using these two rules as guidance, the Arbitrators opine that a petition for reconsideration should be filed within fifteen (15) days after the entry of an order, and should be directed at the findings and/or conclusions that are memorialized in such written order. As no written order had been entered as of May 22, 2000, the Arbitrators conclude that BellSouth's *Motion for Reconsideration* was filed prematurely and, therefore, is dismissed without prejudice.

## **II. Final Best Offers**

### **A. Issue 1(a): Should BellSouth be required to comply with performance measures and guarantees for pre-ordering/ordering, resale, and unbundled network elements ("UNEs"), provisioning, maintenance, interim number portability and local number portability, collocation, coordinated conversions and the bona fide request processes as set forth fully in Attachment 10 of Exhibit A to this Petition?**

During the April 4, 2000 deliberations, the Arbitrators concluded that the interconnection agreement should include performance measures and enforcement mechanisms. Thereafter, the Arbitrators adopted BellSouth's September 15, 1999 Service Quality Measurements ("SQMs") and thirty (30) additional measures from the Texas Performance Plan<sup>3</sup> with associated definitions and business rules. In addition, the Arbitrators concluded that all measurements shall be at the Tennessee level and BellSouth data should be used for all measurements and calculations. As specified in BellSouth's proposal in the Voluntary Self-Effectuating Enforcement Mechanisms

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<sup>3</sup> On January 25, 2000, the Arbitrators proposed taking official notice of the ICG arbitration record, Docket No. 99-00377, which contains the final Texas Performance Plan and late filed exhibits outlining the differences in the Texas Plan and BellSouth's Service Quality Measurements ("SQMs"). The Arbitrators gave the parties an opportunity to respond and none objected. Thereafter, the Arbitrators took official notice of Docket No. 99-00377 and relied upon the record in that docket.



("VSEEMs"), BellSouth shall make performance reports available through an electronic medium to DeltaCom on a monthly basis. Finally, the Arbitrators concluded that further information was necessary to fully resolve this issue. Therefore, the Arbitrators requested final best offers on the following five items:

1. The electronic medium to be used in providing DeltaCom with access to the performance report and underlying data;
2. The process to be utilized to determine BellSouth's compliance or non-compliance with the standard and/or benchmark;
3. Standards and/or benchmarks for each measurement. Standards must be specific and measurable. Parity or retail analog should include the specific service to which parity will be measured or the retail analog companion. Additionally, a methodology should be provided for defining or calculating the performance standard and/or benchmark, for each measure, such as the method contained in the VSEEMs for each measure;
4. Enforcement mechanisms. These must be specific and should provide the number of occurrences at which the enforcement mechanism applies (threshold) and the specific enforcement mechanism once the threshold is met. Enforcement mechanisms should be categorized by tiers structured similar to those contained in BellSouth's VSEEMs and should include appropriate caps; and
5. Circumstances that would warrant a waiver request from BellSouth and the time frame for submitting such waiver request.

The Arbitrators also directed BellSouth to file a reasonable commitment date as to when the measurements will be available for the SQMs where it is noted that the level of disaggregation is under development together with the availability date for the thirty (30) additional, adopted measures.

After careful consideration of the parties' final best offers, the Authority finds that the parties failed to properly respond to the specific items listed by the Authority during the April 4, 2000 deliberations. The parties did not simply respond to the five unresolved issues based on the already decided issues. Instead, both parties included alterations and/or amendments to the performance measures adopted by the Authority during the April 4, 2000 deliberations, and then provided final best offers premised upon their suggested altered and/or amended performance

measures. Because the parties failed to take into consideration the decisions of the Arbitrators made during the April 4, 2000 deliberations and provide final best offers based on those decisions, the Arbitrators conclude that resubmission of final best offers on issue 1(a) is necessary. The parties shall resubmit their revised final best offers within fifteen (15) days of the entry of this Order.

**B. Issue 4(a): Should BellSouth provide cageless collocation to DeltaCom thirty (30) days after a firm order is placed?**

During the April 4, 2000 deliberations, the Arbitrators made the following findings: “Based on the record, DeltaCom’s request for thirty days may not be unreasonable in some circumstances. On the other hand, there are scenarios that would require extraordinary actions making a thirty-day deadline impossible. Recognizing the validity of both positions, the Arbitrators request the submission of final best offers.” After careful consideration of the final best offers submitted by the parties on this issue, the Arbitrators find that DeltaCom’s offer, with one exception, best addresses the concerns of the Arbitrators expressed during the deliberations. Specifically, DeltaCom’s final best offer provides for a thirty (30) day interval for the provisioning of cageless collocation and includes a sixty (60) business day maximum, thus, allowing additional time for extraordinary circumstances. BellSouth, on the other hand, did not put forth a minimum interval and set the maximum interval at ninety (90) days for ordinary circumstances and one hundred-thirty (130) days for extraordinary circumstances. For these reasons, the Arbitrators adopt DeltaCom’s final best offer on this issue without any reference to adjacent collocation. Further, any language related to adjacent collocation is not to appear in the

final interconnection agreement submitted to the Authority for approval unless specifically negotiated and agreed to by the parties.<sup>4</sup>

**C. Issue 5: Should the parties continue operating under existing local interconnection arrangements?**

During the April 4, 2000 deliberations, the Arbitrators noted that Exhibit B to the proposed interconnection agreement contained nineteen (19) concerns referencing Issue 5. The Arbitrators found that the concerns could be fundamental to the completion of the interconnection agreement, but further found that the record was insufficient to formulate a sound recommendation. Thereafter, the Arbitrators requested submission of final best offers for each of the nineteen (19) concerns.

The parties reached an agreement as to fifteen (15) of the nineteen (19) concerns. In addition, both parties recognized in their final best offers that the Arbitrators had already resolved the concern related to reciprocal compensation when they disposed of Issue 3(1) during the April 4, 2000 deliberations. This being the case, only three (3) concerns remain. These are (1) the definition of local traffic; (2) the treatment of transit traffic; and (3) binding forecasts.

After careful consideration of the final best offers, the Arbitrators make the following findings. First, the Arbitrators find that BellSouth's proposed definition of local traffic is too broad and that DeltaCom's proposed definition of local traffic provides specific details. Second, the Arbitrators find that DeltaCom's language regarding the treatment of transit traffic is identical to the language in the parties' existing agreement and BellSouth has not provided any justification for deviating from that language. Finally, the Arbitrators find that the Pre-

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<sup>4</sup> At the conclusion of the Arbitrators' August 1, 2000 deliberations, BellSouth requested clarification as to language contained in DeltaCom's final best offer regarding adjacent collocation. After discussion, both parties voluntarily agreed to remove any reference to adjacent collocation from the language adopted by the Arbitrators.

Arbitration Officer's *Report and Initial Order* filed on October 6, 1999 excluded the binding forecast issue from the arbitration and the Arbitrators accepted the *Report and Initial Order* on December 3, 1999. Based on these findings, the Arbitrators adopt DeltaCom's final best offers related to the definition of local traffic and the treatment of transit traffic. In addition, the Arbitrators decline to consider final best offers on the issue of binding forecasts.

**D. Issue 8(e): Whether language covering tax liability should be included in the interconnection agreement, and if so, should that language simply state that each party is responsible for its own tax liability?**

During the April 4, 2000 deliberations, the Arbitrators requested that the parties submit final best offers setting forth language that clearly and concisely sets forth the tax liabilities of the parties. After careful consideration of the final best offers, the Arbitrators find that DeltaCom's proposal leaves issues open to dispute while BellSouth's language provides a comprehensive scheme for addressing tax liability issues. Moreover, the Arbitrators recognize that, although BellSouth's offer may be better suited to BellSouth than DeltaCom, the offer includes a provision for cooperation and references the dispute resolution process outlined in Section 16 of the proposed Interconnection Agreement. For these reasons, the Arbitrators adopt the final best offer of BellSouth.

**III. Ordered**


The *Motion for Reconsideration* filed by BellSouth Telecommunications, Inc. is dismissed without prejudice. The parties shall resubmit final best offers as to Issue 1(a) within fifteen (15) days of the entry of this order. The filing shall consist of:

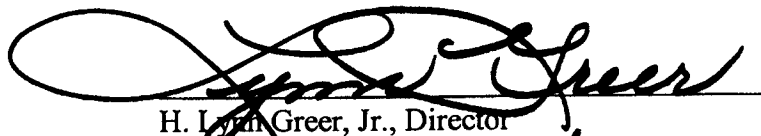
1. The electronic medium to be used in providing DeltaCom with access to the performance reports and underlying data;
2. The process to be utilized to determine BellSouth's compliance or non-compliance with the standard and/or benchmark;

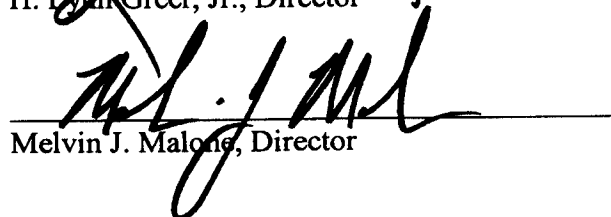
3. Standards and /or benchmarks for each SQM (September 15, 1999 version) and the thirty (30) additional measurements adopted. Standards must be specific. Parity or retail analog should include the specific service to which parity will be measured or the retail analog companion. Additionally, a methodology should be provided for defining or calculating the performance standard and/or benchmark, for each measure, such as the method contained in the VSEEMs for each measure;
4. Enforcement mechanisms. These must be specific and should provide the number of occurrences at which the enforcement mechanism applies (threshold) and the specific enforcement mechanism once the threshold is met. Enforcement mechanisms should be categorized by tiers structured similar to those contained in BellSouth's VSEEMs and should include appropriate caps; and
5. Circumstances that would warrant a waiver request from BellSouth and the time frame for submitting such waiver request.

ITC^DeltaCom Communications Inc.'s final best offer for Issue 4(a) is adopted with the condition that any language related to adjacent collocation not appear in the final interconnection agreement submitted to the Authority for approval. As for Issue 5, ITC^DeltaCom Communications Inc.'s final best offers related to the definition of local traffic and the treatment of transit traffic are adopted. BellSouth Telecommunications, Inc.'s final best offer for Issue 8(e) is adopted.

TENNESSEE REGULATORY AUTHORITY,  
BY ITS DIRECTORS ACTING AS ARBITRATORS

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary



**EXHIBIT NO. AWG -5**  
**FCC MO & O**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Deployment of Wireline Services Offering ) CC Docket No. 98-147  
Advanced Telecommunications Capability )

**MEMORANDUM OPINION AND ORDER**

**Adopted:** February 20, 2001

**Released:** February 21, 2001

By the Acting Deputy Chief, Common Carrier Bureau:

**I. INTRODUCTION**

1. In this Order, we address a request that the Commission waive certain aspects of its *Collocation Reconsideration Order*.<sup>1</sup> For the reasons set forth below, we grant BellSouth Corporation and BellSouth Telecommunications, Inc. (collectively, "BellSouth") a conditional waiver of certain aspects of the *Collocation Reconsideration Order* pending Commission action on petitions for reconsideration of the 90-day provisioning interval.

**II. BACKGROUND**

2. On August 10, 2000, the Commission released the *Collocation Reconsideration Order*, which established national standards for processing physical collocation applications and provisioning physical collocation arrangements. Specifically, the Commission required that an incumbent local exchange carrier ("incumbent LEC") must tell a requesting telecommunications carrier whether a collocation application has been accepted or denied within ten calendar days after receiving the application, in instances where neither the state nor the parties to an interconnection agreement set a different deadline.<sup>2</sup> The Commission also required that an incumbent LEC must complete physical collocation provisioning within 90 calendar days after receiving an acceptable collocation application, except to the extent a state sets its own

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<sup>1</sup> *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 2000 WL 1128623 (rel. Aug. 10, 2000) ("*Collocation Reconsideration Order*"). A summary of the *Collocation Reconsideration Order* was published at 65 Fed. Reg. 54433 (Sept. 8, 2000) ("*Collocation Summary*").

<sup>2</sup> *Collocation Reconsideration Order*, *supra* note 1, at ¶ 24.



collocation provisioning standard or an interconnection agreement between an incumbent LEC and a requesting carrier sets an alternative standard.<sup>3</sup>

3. In the *Collocation Reconsideration Order*, the Commission recognized that an incumbent LEC may have filed with the state commission a statement of generally available terms ("SGAT") or a tariff that sets forth the rates, terms, and conditions under which the incumbent LEC provides physical collocation. The Commission required that an incumbent LEC must file with the state commission any amendments necessary to bring its SGAT or physical collocation tariff into compliance with the national standards. The Commission specified that these amendments would be due 30 days after the *Collocation Reconsideration Order's* effective date (*i.e.*, by November 9, 2000).<sup>4</sup> The Commission also specified that the national standards would take effect within 60 days after the amendments filing for SGATs (*i.e.*, by January 8, 2001), and at the earliest point permissible under state law for tariffs, except to the extent the state commission specifies other application processing or provisioning intervals for a particular type of collocation arrangement.<sup>5</sup>

4. On November 7, 2000, the Common Carrier Bureau granted Verizon, SBC and Qwest conditional waivers of certain aspects of the *Collocation Reconsideration Order* pending Commission action on these carriers' petitions for reconsideration of the 90-day provisioning interval.<sup>6</sup> The Bureau also clarified that the November 9, 2000 deadline for amending SGATs and collocation tariffs applies only to the extent a state has not affirmatively set its own application processing and provisioning standards for physical collocation. Finally, the Bureau Order clarified that a state commission does not set such standards when it permits application processing and provisioning intervals to take effect without an affirmative determination that they comply with section 251(c)(6) of the Communications Act of 1934, as amended ("Communications Act" or "Act").<sup>7</sup>

5. On December 1, 2000, BellSouth filed a petition for conditional waiver of the 90-day collocation interval established in the *Collocation Reconsideration Order*. Specifically, BellSouth requests the same conditional waiver from the 90-day collocation interval that we granted Verizon and SBC in the *Collocation Waiver Order*. On December 18, 2000, BellSouth filed an *ex parte* letter indicating there are three states in which the state commission has not yet

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<sup>3</sup> *Id.* at ¶ 29.

<sup>4</sup> See *id.* at ¶ 36; see also *Collocation Summary*, 65 Fed. Reg. at 54433 (establishing an October 10, 2000 effective date for certain rules adopted in the *Collocation Reconsideration Order*); *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 65 FR 57291 (Sept. 22, 2000) (establishing the same effective date for the remaining rules adopted in that *Order*).

<sup>5</sup> *Collocation Reconsideration Order*, *supra* note 1, at ¶ 36.

<sup>6</sup> *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Memorandum Opinion and Order, DA 00-2528 (Com. Car. Bur. rel. Nov. 7, 2000) ("*Collocation Waiver Order*").

<sup>7</sup> 47 U.S.C. § 251(c)(6).

set its own interval standard. Those states are Alabama, North Carolina, and Tennessee.<sup>8</sup> ITC^DeltaCom, Inc. d/b/a ITC^DeltaCom Communications, Inc. ("ITC^DeltaCom") and WorldCom, Inc. ("WorldCom") oppose BellSouth's waiver request.

### III. DISCUSSION

#### A. Waiver Request

6. We grant, in part, the petition of BellSouth for a conditional waiver of certain aspects of the *Collocation Reconsideration Order* pending Commission action on petitions for reconsideration of that *Order*. Specifically, BellSouth requests waiver of the 90-day provisioning interval set by the Commission in the *Collocation Reconsideration Order* pending Commission reconsideration of that interval. BellSouth proposes that its waiver be conditioned on compliance with alternative application processing and provisioning standards for physical collocation identical to the standards set for SBC and Verizon in the *Collocation Waiver Order*. We conclude that the equities favor the grant of the waiver only because we find that the alternative intervals upon which we condition the waiver will not create substantial additional delay in the provisioning of physical collocation space to competitors. Thus, by granting the waiver, we in no way retreat from the Commission's determination that a national standard for such intervals is essential in the absence of state commission action on such intervals. Accordingly, we condition the waiver on petitioner's implementation of those standards to the extent states within petitioner's region have not set their own application processing or provisioning standards for BellSouth's physical collocation operations.

7. As stated in our *Collocation Waiver Order*, the Commission may waive any provision of its rules for good cause shown.<sup>9</sup> In their petitions for reconsideration of the *Collocation Reconsideration Order*, Verizon, SBC, and Qwest raised issues as to whether the 90-day interval is appropriate, either generally or for particular types of arrangements. We also noted in the *Collocation Waiver Order* that these petitions for reconsideration and the comments on them greatly expand the record on reasonable physical collocation intervals beyond what was available to the Commission when it adopted the *Collocation Reconsideration Order*. While we express no opinion on the merits of these petitions for reconsideration or on what action the Commission might take in response to them, this greatly expanded record countenances pause

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<sup>8</sup> The Alabama Public Service Commission ("Alabama Commission") filed comments in response to BellSouth's waiver request.

<sup>9</sup> 47 C.F.R. § 1.3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972) (*WAIT Radio*).

before we insist on absolute compliance with that *Order*. Consequently, we reject WorldCom's argument that the requisite "good cause" has not been provided.<sup>10</sup>

8. An additional consideration is that, in adopting the application processing and provisioning standards, the Commission specified that an incumbent LEC need not comply with them to the extent a state sets its own standards for physical collocation.<sup>11</sup> Granting the interim waiver requested by BellSouth will give state commissions additional time to evaluate whether different intervals are more appropriate in their states, as contemplated in the *Collocation Reconsideration Order*. At the same time, we continue to believe that it would be unfair to competitive local exchange carriers ("competitive LECs") to allow any incumbent LEC to continue the collocation provisioning performance that led us to adopt the national application processing and collocation provisioning standards. That performance, as the Commission determined in the *Collocation Reconsideration Order*, has substantially delayed many competitive LECs' efforts to obtain physical collocation and has impeded competitive LECs' ability to provide facilities-based service in much of the country.<sup>12</sup>

9. We therefore conclude that the public interest would be best served by conditioning waiver on BellSouth's commitment to meet reasonable alternative provisioning intervals. Accordingly, we condition our grant on petitioner's adoption of interim application processing and provisioning intervals in accordance with the procedures specified for SBC and Verizon in the *Collocation Waiver Order*. These intervals will remain in effect pending Commission action on the petitions for reconsideration of the *Collocation Reconsideration Order*, except to the extent a state sets its own intervals. These intervals will provide meaningful relief to many competitive LECs, without forcing BellSouth to implement the national standards prior to any federal or state consideration of their arguments that the current standards are unreasonably short. Moreover, we find that this waiver test is consistent with the Commission's goal in the *Collocation Reconsideration Order* of substantially reducing the delays competitive LECs encounter in seeking to use physical collocation to compete against incumbent LECs.<sup>13</sup>

10. BellSouth's request for the same conditional waiver of the 90-day interval that was granted to Verizon and SBC in the *Collocation Waiver Order* is a reasonable one. Pursuant to those waivers, Verizon and SBC are required to adhere to collocation intervals adopted by the New York Public Service Commission ("New York Commission"). Specifically, those waivers were, and this waiver is, conditioned upon compliance with New York Commission requirements that the incumbent LEC notify a requesting carrier whether its request can be accommodated within eight business days (roughly, 11 calendar days) of the incumbent LEC's receipt of a physical collocation application. Competitive LECs that have properly forecast their collocation demands are entitled to obtain physical collocation space within 76 business days

<sup>10</sup> WorldCom Comments at 2-3.

<sup>11</sup> *Collocation Reconsideration Order*, *supra* note 1, at ¶¶ 24 & 29.

<sup>12</sup> *Id.* at ¶¶ 20-21.

<sup>13</sup> *Id.* at ¶ 20-23.

(roughly, 105 calendar days) when conditioned space is available. In addition, the New York Commission requires Verizon to provision arrangements involving major construction or special applicant requirements within 91 business days (roughly, 126 calendar days).<sup>14</sup> These provisioning intervals can be extended for 20 business days (roughly, 28 calendar days) if collocation space is not readily available and up to three months if the competitive LEC has not properly forecast its collocation demands.<sup>15</sup> The New York Commission also requires that Verizon provision augments to existing collocation arrangements within 45 business days (roughly, 63 calendar days) of receiving a competitive LEC's application.<sup>16</sup> As we stated in the *Collocation Waiver Order*, the New York Commission's standards are generally consistent with the Commission's goals, as set forth in the *Collocation Reconsideration Order* and we accordingly condition this waiver on compliance with these standards.<sup>17</sup>

11. We remain concerned, however, that the New York Commission's standards may result in excessively long intervals in instances where a competitive LEC has not properly forecast its collocation demands. For instance, under the New York standards, a failure to submit a timely and accurate forecast could subject a competitive LEC to intervals as long as 195 days for arrangements that do not involve major construction or special applicant requirements. In the context of this interim waiver order, we continue to find that this aspect of the New York standard would unfairly disadvantage competitors.<sup>18</sup> We therefore will allow BellSouth to increase the provisioning interval for a proposed physical collocation arrangement by no more than 60 calendar days in the event a competitive LEC fails to provide a timely and accurate forecast. WorldCom argues that BellSouth has gone beyond seeking to extend the terms of the *Collocation Waiver Order* to itself by also requesting that the Commission order competitive LECs to provide two-year forecasts.<sup>19</sup> We do not believe that it is a fair reading of BellSouth's request. In any event, the waiver we grant herein does not allow BellSouth to increase provisioning intervals due to failure of a competitive LEC to submit a timely and accurate forecast unless the competitive LEC has not properly forecast its collocation requirements three months in advance.<sup>20</sup> We expect BellSouth to use its best efforts to minimize any such increases, particularly during the initial implementation period when many competitive LECs may still be in the process of preparing their forecasts. In addition, absent a competitive LEC's express

<sup>14</sup> Verizon Petition for Waiver at Attachment C.

<sup>15</sup> Verizon Petition for Waiver at Attachment C. We note that the New York Commission standards provide for no penalty for inaccurate competitive LEC forecasts, other than an increase in provisioning intervals.

<sup>16</sup> *Proceeding on Motion of the Commission to Examine Issues Concerning the Provision of Digital Subscriber Line Services*, Opinion and Order Concerning Verizon's Provision of DSL Capabilities, Opinion No. 00-12, 8-10 (New York PSC, Oct. 31, 2000) ("New York PSC Opinion No. 00-12").

<sup>17</sup> See *Collocation Waiver Order* at ¶ 14.

<sup>18</sup> *Id.* at ¶ 15.

<sup>19</sup> WorldCom Comments at 3.

<sup>20</sup> See Verizon Petition for Waiver at Attachment C.

approval, BellSouth must use collocation forecasts obtained from the competitive LEC only for purposes of providing that carrier with reasonable and nondiscriminatory collocation arrangements.<sup>21</sup>

12. Subject to these modifications, we find that the New York Commission standards, including the 45 business day interval for augments, meet our criterion for an interim waiver of the national standards. To the extent any state has affirmatively specified different application processing or provisioning intervals for BellSouth's operations within that state, BellSouth, of course, must implement the alternative intervals in that state. For example, the Alabama Public Service Commission ("Alabama Commission") filed comments regarding BellSouth's waiver request to inform the Commission that the Alabama Commission has issued a decision on cageless collocation provisioning intervals and anticipates issuing a decision on additional collocation processing and provisioning intervals in the near future.<sup>22</sup> To the extent a state has set application processing or provisioning intervals for particular types of BellSouth collocation arrangements, BellSouth must implement those intervals in that state.<sup>23</sup> To the extent a state does not set such intervals, BellSouth must comply with the conditional waiver granted in this Order. BellSouth would be required to comply with any new state provisioning intervals when the state sets those intervals.

#### B. Implementing Procedures

13. In order to implement the conditions discussed above and thereby to effectuate the requested waivers, BellSouth must offer to provide all forms of physical collocation in accordance with those intervals, except to the extent a state has affirmatively specified its own application processing and collocation interval deadlines. These offers must be consistent with the procedures set forth in the *Collocation Reconsideration Order*.<sup>24</sup> BellSouth also must file with the state commissions any amendments necessary to bring its SGATs or collocation tariffs into compliance with the interim standards.<sup>25</sup> BellSouth will have fifteen days from the release of this Order to file these amendments. The interim standards shall take effect within 60 days after the amendments filing for SGATs, and at the earliest point permissible under state law for

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<sup>21</sup> 47 U.S.C. § 222.

<sup>22</sup> See Alabama Commission Comments at 2. See also ITC^DeltaCom Comments at 2 (noting that the Alabama Commission, the Georgia Public Service Commission, and the Tennessee Regulatory Authority have issued orders regarding cageless collocation applications).

<sup>23</sup> See *Collocation Reconsideration Order* at ¶ 37.

<sup>24</sup> See *Collocation Reconsideration Order*, *supra* note 1, at ¶¶ 33-34.

<sup>25</sup> *Id.* at ¶ 36.

tariffs, except to the extent the state commission affirmatively specifies other application processing or provisioning intervals for a particular type of collocation arrangement.<sup>26</sup>

## II. ORDERING CLAUSES

14. Accordingly, IT IS ORDERED, pursuant to sections 1-4, 201, 202, 251-254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201, 202, 251-254, 256, 271, 303(r), and authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that the Petition for Conditional Waiver filed December 1, 2000 by BellSouth Corporation and BellSouth Telecommunications, Inc. IS GRANTED TO THE EXTENT STATED HEREIN AND OTHERWISE DENIED, subject to the conditions stated in part III.A of this *Memorandum Opinion and Order*. BellSouth must implement the application processing and provisioning intervals for physical collocation described in Attachment C to Verizon's Petition for Conditional Waiver, as modified by the New York Commission in Opinion No. 00-12, subject to the modifications set forth in this Order.

15. IT IS FURTHER ORDERED that the conditional waiver granted in this *Memorandum Opinion and Order* IS EFFECTIVE IMMEDIATELY UPON RELEASE, in accordance with Section 1.103 of the Commission's rules, 47 C.F.R. § 1.103.

FEDERAL COMMUNICATIONS COMMISSION



Glenn T. Reynolds  
Acting Deputy Chief  
Common Carrier Bureau



<sup>26</sup> *Id.* The conditional waiver we grant BellSouth in this Order will take effect immediately upon this Order's release.



**EXHIBIT NO. AWG -6**  
**Southeaster Services, Inc.**  
**Physical Collocation Interconnection Agreement**



**Attachment 4**

**Physical Collocation**

**BELLSOUTH**  
**PHYSICAL COLLOCATION**

**1. Scope of Attachment**

- 1.1 The rates, terms, and conditions contained within this Attachment shall only apply when Southeastern Services, Inc. is physically collocated as a sole occupant or as a Host within a Premises location pursuant to this Attachment. BellSouth Premises include BellSouth Central Offices and Serving Wire Centers (hereinafter "Premises"). This Attachment is applicable to Premises owned or leased by BellSouth. However, if the Premises occupied by BellSouth is leased by BellSouth from a third party, special considerations and intervals may apply in addition to the terms and conditions of this Attachment.
- 1.2 Right to Occupy. BellSouth shall offer to Southeastern Services, Inc. collocation on rates, terms, and conditions that are just, reasonable, non-discriminatory and consistent with the rules of the Federal Communications Commission ("FCC"). Subject to the rates, terms and conditions of this Attachment where space is available and it is technically feasible, BellSouth will allow Southeastern Services, Inc. to occupy that certain area designated by BellSouth within a BellSouth Premises, or on BellSouth property upon which the BellSouth Premises is located, of a size which is specified by Southeastern Services, Inc. and agreed to by BellSouth (hereinafter "Collocation Space"). The necessary rates, terms and conditions for BellSouth locations other than BellSouth Premises shall be negotiated upon request for collocation at such location(s).
- 1.2.1 Neither BellSouth nor any of BellSouth's affiliates may reserve space for future use on more preferential terms than those set forth below.
- 1.2.1.1 In all states other than Florida, the size specified by Southeastern Services, Inc. may contemplate a request for space sufficient to accommodate Southeastern Services, Inc.'s growth within a two-year period.
- 1.2.1.2 In the state of Florida, the size specified by Southeastern Services, Inc. may contemplate a request for space sufficient to accommodate Southeastern Services, Inc.'s growth within an eighteen (18) month period.
- 1.3 Space Allocation. BellSouth shall attempt to accommodate <<customer\_ name>>'s requested preferences if any. In allocating Collocation Space, BellSouth shall not materially increase Southeastern Services, Inc.'s cost or materially delay Southeastern Services, Inc.'s occupation and use of the Collocation Space, shall not assign Collocation Space that will impair the quality of service or otherwise limit the service the Southeastern Services, Inc. wishes to offer, and shall not reduce unreasonably the

total space available for physical collocation or preclude unreasonably physical collocation within the Premises. Space shall not be available for collocation if it is: (a) physically occupied by non-obsolete equipment; (b) assigned to another collocator; (c) used to provide physical access to occupied space; (d) used to enable technicians to work on equipment located within occupied space; (e) properly reserved for future use, either by BellSouth or by another carrier; or (f) essential for the administration and proper functioning of BellSouth's Premises. BellSouth may segregate collocation space and require separate entrances in accordance with FCC rules.

- 1.4 Space Reclamation. In the event of space exhaust within a Central Office Premises, BellSouth may include in its documentation for the Petition for Waiver filing any unutilized space in the Central Office Premises. Southeastern Services, Inc. will be responsible for any justification of unutilized space within its space, if the appropriate state commission requires such justification.
- 1.5 Use of Space. Southeastern Services, Inc. shall use the Collocation Space for the purposes of installing, maintaining and operating Southeastern Services, Inc.'s equipment (to include testing and monitoring equipment) necessary for interconnection with BellSouth services and facilities or for accessing BellSouth unbundled network elements for the provision of telecommunications services, as specifically set forth in this Attachment. The Collocation Space may be used for no other purposes except as specifically described herein or in any amendment hereto.
- 1.6 Rates and Charges. Southeastern Services, Inc. agrees to pay the rates and charges identified in Exhibit C attached hereto.
- 1.7 Due Dates. If any due date contained in this Attachment falls on a weekend or National holiday, then the due date will be the next business day thereafter.
- 1.8 The parties agree to comply with all applicable federal, state, county, local and administrative laws, rules, ordinances, regulations and codes in the performance of their obligations hereunder.

## **2. Space Availability Report**

- 2.1 Space Availability Report. Upon request from Southeastern Services, Inc., BellSouth will provide a written report ("Space Availability Report") describing in detail the space that is available for collocation and specifying the amount of Collocation Space available at the Premises requested, the number of collocators present at the Premises, any modifications in the use of the space since the last report on the Premises requested and the measures BellSouth is taking to make additional space available for collocation arrangements. A Space Availability Report does not reserve space at the Premises.

- 2.1.1 The request from Southeastern Services, Inc. for a Space Availability Report must be written and must include the Premises street address, located in the Local Exchange Routing Guide and Common Language Location Identification (“CLLI”) code of the Premises. CLLI code information is located in the National Exchange Carriers Association (NECA) Tariff FCC No. 4.
- 2.1.2 BellSouth will respond to a request for a Space Availability Report for a particular Premises within ten (10) calendar days of receipt of such request. BellSouth will make best efforts to respond in ten (10) calendar days to such a request when the request includes from two (2) to five (5) Premises within the same state. The response time for requests of more than five (5) Premises shall be negotiated between the Parties. If BellSouth cannot meet the ten calendar day response time, BellSouth shall notify Southeastern Services, Inc. and inform Southeastern Services, Inc. of the time frame under which it can respond.

### **3. Collocation Options**

- 3.1 Cageless. BellSouth shall allow Southeastern Services, Inc. to collocate Southeastern Services, Inc.’s equipment and facilities without requiring the construction of a cage or similar structure. BellSouth shall allow Southeastern Services, Inc. to have direct access to Southeastern Services, Inc.’s equipment and facilities. BellSouth shall make cageless collocation available in single bay increments. Except where Southeastern Services, Inc.’s equipment requires special technical considerations (e.g., special cable racking, isolated ground plane, etc.), BellSouth shall assign cageless Collocation Space in conventional equipment rack lineups where feasible. For equipment requiring special technical considerations, Southeastern Services, Inc. must provide the equipment layout, including spatial dimensions for such equipment pursuant to generic requirements contained in Telcordia GR-63-Core, and shall be responsible for compliance with all special technical requirements associated with such equipment.
- 3.2 Caged. At Southeastern Services, Inc.’s expense, Southeastern Services, Inc. may arrange with a Supplier certified by BellSouth (“Certified Supplier”) to construct a collocation arrangement enclosure in accordance with BellSouth’s guidelines and specifications prior to starting equipment installation. BellSouth will provide guidelines and specifications upon request. Where local building codes require enclosure specifications more stringent than BellSouth’s standard enclosure specification, Southeastern Services, Inc. and Southeastern Services, Inc.’s Certified Supplier must comply with the more stringent local building code requirements. Southeastern Services, Inc.’s Certified Supplier shall be responsible for filing and receiving any and all necessary permits and/or licenses for such construction. BellSouth shall cooperate with Southeastern Services, Inc. and provide, at Southeastern Services, Inc.’s expense, the documentation, including existing building

architectural drawings, enclosure drawings, and specifications required and necessary for Southeastern Services, Inc. to obtain the zoning, permits and/or other licenses. Southeastern Services, Inc.'s Certified Supplier shall bill Southeastern Services, Inc. directly for all work performed for Southeastern Services, Inc. pursuant to this Attachment and BellSouth shall have no liability for nor responsibility to pay such charges imposed by the Southeastern Services, Inc.'s Certified Supplier. Southeastern Services, Inc. must provide the local BellSouth building contact with two Access Keys used to enter the locked enclosure. Except in case of emergency, BellSouth will not access Southeastern Services, Inc.'s locked enclosure prior to notifying Southeastern Services, Inc.. Upon request, BellSouth shall construct the enclosure for Southeastern Services, Inc..

- 3.2.1 BellSouth may elect to review Southeastern Services, Inc.'s plans and specifications prior to allowing construction to start to ensure compliance with BellSouth's guidelines and specifications. Notification to Southeastern Services, Inc. indicating BellSouth's desire to execute this review will be provided in BellSouth's response to the Initial Application, if Southeastern Services, Inc. has indicated their desire to construct their own enclosure. If Southeastern Services, Inc.'s Initial Application does not indicate their desire to construct their own enclosure, but their subsequent firm order does indicate their desire to construct their own enclosure, then notification to review will be given within ten (10) calendar days after the Firm Order date. . BellSouth shall complete its review within fifteen (15) calendar days after the receipt of the plans and specifications. Regardless of whether or not BellSouth elects to review Southeastern Services, Inc.'s plans and specifications, BellSouth reserves the right to inspect the enclosure after construction to make sure it is constructed according to the submitted plans and specifications and/or BellSouth's guidelines and specifications, as applicable. BellSouth shall require Southeastern Services, Inc. to remove or correct within seven (7) calendar days at Southeastern Services, Inc.'s expense any structure that does not meet these plans and specifications or, where applicable, BellSouth guidelines and specifications.

- 3.3 Shared (Subleased) Caged Collocation. Southeastern Services, Inc. may allow other telecommunications carriers to share Southeastern Services, Inc.'s caged collocation arrangement pursuant to terms and conditions agreed to by Southeastern Services, Inc. ("Host") and other telecommunications carriers ("Guests") and pursuant to this section, except where the BellSouth Premises is located within a leased space and BellSouth is prohibited by said lease from offering such an option. Southeastern Services, Inc. shall notify BellSouth in writing upon execution of any agreement between the Host and its Guest within ten (10) calendar days of its execution and prior to any Firm Order. Further, such notice shall include the name of the Guest(s) and the term of the agreement, and shall contain a certification by Southeastern Services, Inc. that said agreement imposes upon the Guest(s) the same terms and conditions for Collocation Space as set forth in this Attachment between BellSouth and Southeastern Services, Inc..

- 3.3.1 Southeastern Services, Inc., as the Host shall be the sole interface and responsible Party to BellSouth for the assessment and billing of rates and charges contained within this Attachment and for the purposes of ensuring that the safety and security requirements of this Attachment are fully complied with by the Guest, its employees and agents. BellSouth shall provide Southeastern Services, Inc. with a proration of the costs of the collocation space based on the number of collocators and the space used by each. In all states other than Florida, and in addition to the foregoing, Southeastern Services, Inc. shall be the responsible party to BellSouth for the purpose of submitting Applications for initial and additional equipment placement of Guest. In Florida the Guest may directly submit initial and additional equipment placement applications using the Host's access carrier name abbreviation (ACNA). A separate Guest application shall require the assessment of an Initial or Subsequent Application Fee, as set forth in Exhibit C. Notwithstanding the foregoing, Guest may arrange directly with BellSouth for the provision of the interconnecting facilities between BellSouth and Guest and for the provision of the services and access to unbundled network elements.
- 3.3.2 Southeastern Services, Inc. shall indemnify and hold harmless BellSouth from any and all claims, actions, causes of action, of whatever kind or nature arising out of the presence of Southeastern Services, Inc.'s Guests in the Collocation Space except to the extent caused by BellSouth's sole negligence, gross negligence, or willful misconduct.
- 3.4 Adjacent Collocation. Subject to technical feasibility and space availability, BellSouth will permit adjacent collocation arrangements ("Adjacent Arrangement") on the Premises' property where physical collocation space within the Premises is legitimately exhausted, where the Adjacent Arrangement does not interfere with access to existing or planned structures or facilities on the Premises property. The Adjacent Arrangement shall be constructed or procured by Southeastern Services, Inc. and in conformance with BellSouth's design and construction specifications. Further, Southeastern Services, Inc. shall construct, procure, maintain and operate said Adjacent Arrangement(s) pursuant to all of the rates, terms and conditions set forth in this Attachment.
- 3.4.1 Should Southeastern Services, Inc. elect such option, Southeastern Services, Inc. must arrange with a Certified Supplier to construct an Adjacent Arrangement structure in accordance with BellSouth's guidelines and specifications. BellSouth will provide guidelines and specifications upon request. Where local building codes require enclosure specifications more stringent than BellSouth's standard specification, Southeastern Services, Inc. and Southeastern Services, Inc.'s Certified Supplier must comply with the more stringent local building code requirements. Southeastern Services, Inc.'s Certified Supplier shall be responsible for filing and receiving any and all necessary zoning, permits and/or licenses for such construction. Southeastern Services, Inc.'s Certified Supplier shall bill Southeastern Services, Inc. directly for all work performed for Southeastern Services, Inc. pursuant to this Attachment and

BellSouth shall have no liability for nor responsibility to pay such charges imposed by Southeastern Services, Inc.'s Certified Supplier. Southeastern Services, Inc. must provide the local BellSouth building contact with two cards, keys or other access device used to enter the locked enclosure. Except in cases of emergency, BellSouth shall not access Southeastern Services, Inc.'s locked enclosure prior to notifying Southeastern Services, Inc..

3.4.2 Southeastern Services, Inc. must submit its plans and specifications to BellSouth with its Firm Order. BellSouth shall review Southeastern Services, Inc.'s plans and specifications prior to construction of an Adjacent Arrangement(s) to ensure compliance with BellSouth's guidelines and specifications. BellSouth shall complete its review within fifteen (15) calendar days after receipt of plans and specifications. BellSouth will have the right to inspect the Adjacent Arrangement during and after construction to make sure it is constructed according to the submitted plans and specifications. BellSouth shall require Southeastern Services, Inc. to remove or correct within seven (7) calendar days at Southeastern Services, Inc.'s expense any structure that does not meet these plans and specifications or, where applicable, BellSouth's guidelines and specifications.

3.4.3 Southeastern Services, Inc. shall provide a concrete pad, the structure housing the arrangement, heating/ventilation/air conditioning ("HVAC"), lighting, and all facilities that connect the structure (i.e. racking, conduits, etc.) to the BellSouth point of demarcation. At Southeastern Services, Inc.'s option, and where the local authority having jurisdiction permits, BellSouth shall provide an AC power source and access to physical collocation services and facilities subject to the same nondiscriminatory requirements as applicable to any other physical collocation arrangement. In Louisiana, BellSouth will provide DC power to Adjacent Collocation sites where technically feasible, as that term has been defined by the FCC. Southeastern Services, Inc.'s Certified Supplier shall be responsible, at Southeastern Services, Inc.'s expense, for filing and receiving any and all necessary zoning, permits and/or licenses for such arrangement. BellSouth shall allow Shared (Subleased) Caged Collocation within an Adjacent Arrangement pursuant to the terms and conditions set forth herein.

3.5 Co-carrier cross-connect (CCXC). The primary purpose of collocating CLEC equipment is to interconnect with BellSouth's network or access BellSouth's unbundled network elements for the provision of telecommunications services. BellSouth will permit Southeastern Services, Inc. to interconnect between its virtual or physical collocation arrangements and those of another collocated CLEC whose Agreement contains co-carrier cross-connect language. At no point in time shall Southeastern Services, Inc. use the Collocation Space for the sole or primary purpose of cross-connecting to other CLECs.

3.5.1 The CCXC, shall be provisioned through facilities owned by Southeastern Services, Inc.. Such connections to other carriers may be made using either optical or electrical facilities. Southeastern Services, Inc. may deploy such optical or electrical

connections directly between its own facilities and the facilities of other CLEC(s) without being routed through BellSouth equipment. Southeastern Services, Inc. may not self provision CCXC on any BellSouth distribution frame, Pot Bay, DSX or LGX. Southeastern Services, Inc. is responsible for ensuring the integrity of the signal.

- 3.5.2 Southeastern Services, Inc. shall be responsible for obtaining authorization from the other CLEC(s) involved. Southeastern Services, Inc. must use a BellSouth Certified Supplier to place the CCXC. There will be a recurring charge per linear foot of common cable support structure used. Southeastern Services, Inc.-provisioned CCXC shall utilize common cable support structure. In the case of two contiguous collocation arrangements, Southeastern Services, Inc. may have the option of constructing its own dedicated support structure.

#### **4. Occupancy**

- 4.1 Occupancy. BellSouth will notify Southeastern Services, Inc. in writing that the Collocation Space is ready for occupancy ("Space Ready Date"). Southeastern Services, Inc. will schedule and complete an acceptance walkthrough of each Collocation Space with BellSouth within fifteen (15) days of BellSouth's notifying Southeastern Services, Inc. that the collocation space is ready for occupancy. In the event that Southeastern Services, Inc. fails to complete an acceptance walkthrough within this fifteen (15) day interval, the Collocation Space shall be deemed accepted by Southeastern Services, Inc. and billing will commence on the sixteenth day after BellSouth releases the collocation space. Southeastern Services, Inc. must notify BellSouth in writing that collocation equipment installation is complete and is operational with BellSouth's network. BellSouth may, at its option, not accept orders for cross connects until receipt of such notice. For purposes of this paragraph, Southeastern Services, Inc.'s telecommunications equipment will be deemed operational when cross-connected to BellSouth's network for the purpose of service provision.
- 4.2 Termination of Occupancy. In addition to any other provisions addressing termination of occupancy in this Attachment, Southeastern Services, Inc. may terminate occupancy in a particular Collocation Space by submitting a Subsequent Application requesting termination of occupancy. A Subsequent Application Fee will not apply for termination of occupancy. BellSouth may terminate Southeastern Services, Inc.'s right to occupy the Collocation Space in the event Southeastern Services, Inc. fails to comply with any provision of this Agreement.
- 4.2.1 Upon termination of occupancy, Southeastern Services, Inc. at its expense shall remove its equipment and other property from the Collocation Space. Southeastern Services, Inc. shall have thirty (30) calendar days from the termination date to complete such removal, including the removal of all equipment and facilities of Southeastern Services, Inc.'s Guests, unless Southeastern Services, Inc.'s Guest has assumed responsibility for the collocation space housing the Guest's equipment and



executed the documentation required by BellSouth prior to such removal date. Southeastern Services, Inc. shall continue payment of monthly fees to BellSouth until such date as Southeastern Services, Inc., and if applicable Southeastern Services, Inc.'s Guest, has fully vacated the Collocation Space and the Space Relinquish Form has been accepted by BellSouth.. Should Southeastern Services, Inc. or Southeastern Services, Inc.'s Guest fail to vacate the Collocation Space within thirty (30) calendar days from the termination date, BellSouth shall have the right to remove the equipment and other property of Southeastern Services, Inc. or Southeastern Services, Inc.'s Guest at Southeastern Services, Inc.'s expense and with no liability for damage or injury to Southeastern Services, Inc. or Southeastern Services, Inc.'s Guest's property unless caused by the gross negligence or intentional misconduct of BellSouth. Upon termination of Southeastern Services, Inc.'s right to occupy Collocation Space, Southeastern Services, Inc. shall surrender such Collocation Space to BellSouth in the same condition as when first occupied by Southeastern Services, Inc. except for ordinary wear and tear, unless otherwise agreed to by the Parties. Southeastern Services, Inc. or Southeastern Services, Inc.'s BellSouth Certified Supplier shall be responsible for updating and making any necessary changes to BellSouth's records as required by BellSouth's guidelines and specifications including but not limited to Central Office Record Drawings and ERMA Records. Southeastern Services, Inc. shall be responsible for the cost of removing any enclosure, together with all support structures (e.g., racking, conduits, power cables, etc.), at the termination of occupancy and restoring the grounds to their original condition.

## **5. Use of Collocation Space**

5.1 Equipment Type. BellSouth permits the collocation of any type of equipment necessary for interconnection to BellSouth's network or for access to BellSouth's unbundled network elements in the provision of telecommunications services, as the term "necessary" is defined by FCC 47 C.F.R. Section 51.323 (b). The primary purpose and function of any equipment collocated in a Premises must be for interconnection to BellSouth's network or for access to BellSouth's unbundled network elements in the provision of telecommunications services.

5.1.1 Examples of equipment that would not be considered necessary include but are not limited to: Traditional circuit switching equipment, equipment used exclusively for call-related databases, computer servers used exclusively for providing information services, operations support system (OSS) equipment used to support CLEC network operations, equipment that generates customer orders, manages trouble tickets or inventory, or stores customer records in centralized databases, etc. BellSouth will determine upon receipt of an application if the requested equipment is necessary based on the criteria established by the FCC. Multifunctional equipment placed on BellSouth's Premises must not place any greater relative burden on BellSouth's

property than comparable single-function equipment. BellSouth reserves the right to permit collocation of any equipment on a nondiscriminatory basis.

- 5.1.2 Such equipment must at a minimum meet the following BellCore (Telcordia) Network Equipment Building Systems (NEBS) General Equipment Requirements: Criteria Level 1 requirements as outlined in the BellCore (Telcordia) Special Report SR-3580, Issue 1; equipment design spatial requirements per GR-63-CORE, Section 2; thermal heat dissipation per GR-063-CORE, Section 4, Criteria 77-79; acoustic noise per GR-063-CORE, Section 4, Criterion 128, and National Electric Code standards. Except where otherwise required by a Commission, BellSouth shall comply with the applicable FCC rules relating to denial of collocation based on Southeastern Services, Inc.'s failure to comply with this section.
- 5.1.3 Southeastern Services, Inc. shall not request more DS0, DS1, DS3 and optical terminations for a collocation arrangement than the total port or termination capacity of the equipment physically installed in the arrangement. The total capacity of the equipment collocated in the arrangement will include equipment contained in the application in question as well as equipment already placed in the arrangement. If full network termination capacity of the equipment being installed is not requested in the application, additional network terminations for the installed equipment will require the submission of another application. In the event that Southeastern Services, Inc. submits an application for terminations that exceed the total capacity of the collocated equipment, Southeastern Services, Inc. will be informed of the discrepancy and will be required to submit a revision to the application.
- 5.2 Southeastern Services, Inc. shall not use the Collocation Space for marketing purposes nor shall it place any identifying signs or markings outside the Collocation Space or on the grounds of the Premises.
- 5.3 Southeastern Services, Inc. shall place a plaque or other identification affixed to Southeastern Services, Inc.'s equipment necessary to identify Southeastern Services, Inc.'s equipment, including a list of emergency contacts with telephone numbers.
- 5.4 Entrance Facilities. Southeastern Services, Inc. may elect to place Southeastern Services, Inc.-owned or Southeastern Services, Inc.-leased fiber entrance facilities into the Collocation Space. BellSouth will designate the point of interconnection in close proximity to the Premises building housing the Collocation Space, such as an entrance manhole or a cable vault, which are physically accessible by both Parties. Southeastern Services, Inc. will provide and place fiber cable at the point of entrance of sufficient length to be pulled through conduit and into the splice location. Southeastern Services, Inc. will provide and install a sufficient length of fire retardant riser cable, to which the entrance cable will be spliced by BellSouth, which will extend from the splice location to Southeastern Services, Inc.'s equipment in the Collocation Space. In the event Southeastern Services, Inc. utilizes a non-metallic, riser-type entrance facility, a splice will not be required. Southeastern Services, Inc.

must contact BellSouth for instructions prior to placing the entrance facility cable in the manhole. Southeastern Services, Inc. is responsible for maintenance of the entrance facilities. At Southeastern Services, Inc.'s option BellSouth will accommodate where technically feasible a microwave entrance facility pursuant to separately negotiated terms and conditions. In the case of adjacent collocation, unless BellSouth determines that limited space is available for the entrance facilities, copper facilities may be used between the adjacent collocation arrangement and the central office demarcation point.

- 5.4.1 Dual Entrance. BellSouth will provide at least two interconnection points at each Premises where there are at least two such interconnection points available and where capacity exists. Upon receipt of a request for physical collocation under this Attachment, BellSouth shall provide Southeastern Services, Inc. with information regarding BellSouth's capacity to accommodate dual entrance facilities. If conduit in the serving manhole(s) is available and is not reserved for another purpose for utilization within 12 months of the receipt of an application for collocation, BellSouth will make the requested conduit space available for installing a second entrance facility to Southeastern Services, Inc.'s arrangement. The location of the serving manhole(s) will be determined at the sole discretion of BellSouth. Where dual entrance is not available due to lack of capacity, BellSouth will so state in the Application Response.
- 5.4.2 Shared Use. Southeastern Services, Inc. may utilize spare capacity on an existing interconnector entrance facility for the purpose of providing an entrance facility to Southeastern Services, Inc.'s collocation arrangement within the same BellSouth Premises. BellSouth shall allow the splice, provided that the fiber is non-working fiber. Southeastern Services, Inc. must arrange with BellSouth for BellSouth to splice the Southeastern Services, Inc. provided riser cable to the spare capacity on the entrance facility. The rates set forth in Exhibit C will apply. If Southeastern Services, Inc. Southeastern Services, Inc. desires to allow another CLEC to use its entrance facilities, additional rates, terms and conditions will apply and shall be negotiated between the parties.
- 5.5 Demarcation Point. BellSouth will designate the point(s) of demarcation between Southeastern Services, Inc.'s equipment and/or network and BellSouth's network. Each Party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point. For 2-wire and 4-wire connections to BellSouth's network, the demarcation point shall be a common block on the BellSouth designated conventional distributing frame (CDF). Southeastern Services, Inc. shall be responsible for providing, and a supplier certified by BellSouth ("Certified Supplier") shall be responsible for installing and properly labeling/stenciling, the common block, and necessary cabling pursuant to Section 6. For all other terminations BellSouth shall designate a demarcation point on a per arrangement basis. Southeastern Services, Inc. or its agent must perform all required maintenance to equipment/facilities on its side of the demarcation point, pursuant to

Section 5.6, following, and may self-provision cross-connects that may be required within the Collocation Space to activate service requests. At Southeastern Services, Inc.'s option and expense, a Point of Termination ("POT") bay or frame may be placed in the Collocation Space, but will not serve as the demarcation point. Southeastern Services, Inc. must make arrangements with a Certified Supplier for such placement.

- 5.5.1 In Tennessee, BellSouth will designate the point(s) of demarcation between Southeastern Services, Inc.'s equipment and/or network and BellSouth's network. Each Party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point. For connections to BellSouth's network, the demarcation point shall be a Southeastern Services, Inc. provided Point of Termination Bay (POT Bay) in a common area within the Premises. Southeastern Services, Inc. shall be responsible for providing, and a supplier certified by BellSouth ("Southeastern Services, Inc.'s Certified Supplier") shall be responsible for installing and properly labeling, the POT Bay as well as the necessary cabling between Southeastern Services, Inc.'s collocation space and the demarcation point. Southeastern Services, Inc. or its agent must perform all required maintenance to equipment/facilities on its side of the demarcation point, pursuant to Section 5.6, following, and may self-provision cross-connects that may be required within the Collocation Space to activate service requests. BellSouth will negotiate alternative rates, terms and conditions related to the demarcation point in Tennessee in the event that Southeastern Services, Inc. desires to avoid the use of an intermediary device as contemplated by the Tennessee Regulatory Authority.
- 5.6 Southeastern Services, Inc.'s Equipment and Facilities. Southeastern Services, Inc., or if required by this Attachment, Southeastern Services, Inc.'s Certified Supplier, is solely responsible for the design, engineering, installation, testing, provisioning, performance, monitoring, maintenance and repair of the equipment and facilities used by Southeastern Services, Inc. which must be performed in compliance with all applicable BellSouth policies and guidelines. Such equipment and facilities may include but are not limited to cable(s), equipment, and point of termination connections. Southeastern Services, Inc. and its selected Certified Supplier must follow and comply with all BellSouth requirements outlined in BellSouth's TR 73503, TR 73519, TR 73572, and TR 73564.
- 5.7 BellSouth's Access to Collocation Space. From time to time BellSouth may require access to the Collocation Space. BellSouth retains the right to access such space for the purpose of making BellSouth equipment and building modifications (e.g., running, altering or removing racking, ducts, electrical wiring, HVAC, and cables). BellSouth will give notice to Southeastern Services, Inc. at least 48 hours before access to the Collocation Space is required. Southeastern Services, Inc. may elect to be present whenever BellSouth performs work in the Collocation Space. The Parties

agree that Southeastern Services, Inc. will not bear any of the expense associated with this work.

- 5.8 Access. Pursuant to Section 11, Southeastern Services, Inc. shall have access to the Collocation Space twenty-four (24) hours a day, seven (7) days a week. Southeastern Services, Inc. agrees to provide the name and social security number or date of birth or driver's license number of each employee, contractor, or agents of Southeastern Services, Inc. or Southeastern Services, Inc.'s Guests provided with access keys or devices ("Access Keys") prior to the issuance of said Access Keys. Key acknowledgement forms must be signed by Southeastern Services, Inc. and returned to BellSouth Access Management within 15 calendar days of Southeastern Services, Inc.'s receipt. Failure to return properly acknowledged forms will result in the holding of subsequent requests until acknowledgements are current. Access Keys shall not be duplicated under any circumstances. Southeastern Services, Inc. agrees to be responsible for all Access Keys and for the return of all said Access Keys in the possession of Southeastern Services, Inc. employees, contractors, Guests, or agents after termination of the employment relationship, contractual obligation with Southeastern Services, Inc. or upon the termination of this Attachment or the termination of occupancy of an individual collocation arrangement.
- 5.8.1 BellSouth will permit one accompanied site visit to Southeastern Services, Inc.'s designated collocation arrangement location after receipt of the Bona Fide Firm Order without charge to Southeastern Services, Inc.. Southeastern Services, Inc. must submit to BellSouth the completed Access Control Request Form for all employees or agents requiring access to the BellSouth Premises a minimum of 30 calendar days prior to the date Southeastern Services, Inc. desires access to the Collocation Space. In order to permit reasonable access during construction of the Collocation Space, Southeastern Services, Inc. may submit such a request at any time subsequent to BellSouth's receipt of the Bona Fide Firm Order. In the event Southeastern Services, Inc. desires access to the Collocation Space after submitting such a request but prior to access being approved, in addition to the first accompanied free visit, BellSouth shall permit Southeastern Services, Inc. to access the Collocation Space accompanied by a security escort at Southeastern Services, Inc.'s expense. Southeastern Services, Inc. must request escorted access at least three (3) business days prior to the date such access is desired.
- 5.9 Lost or Stolen Access Keys. Southeastern Services, Inc. shall notify BellSouth in writing within 24 hours of becoming aware in the case of lost or stolen Access Keys. Should it become necessary for BellSouth to re-key buildings or deactivate a card as a result of a lost Access Key(s) or for failure to return an Access Key(s), Southeastern Services, Inc. shall pay for all reasonable costs associated with the re-keying or deactivating the card.
- 5.10 Interference or Impairment. Notwithstanding any other provisions of this Attachment, Southeastern Services, Inc. shall not use any product or service provided

under this Agreement, any other service related thereto or used in combination therewith, or place or use any equipment or facilities in any manner that 1) significantly degrades, interferes with or impairs service provided by BellSouth or by any other entity or any person's use of its telecommunications service; 2) endangers or damages the equipment, facilities or other property of BellSouth or of any other entity or person; 3) compromises the privacy of any communications; or 4) creates an unreasonable risk of injury or death to any individual or to the public. If BellSouth reasonably determines that any equipment or facilities of Southeastern Services, Inc. violates the provisions of this paragraph, BellSouth shall give written notice to Southeastern Services, Inc., which notice shall direct Southeastern Services, Inc. to cure the violation within forty-eight (48) hours of Southeastern Services, Inc.'s actual receipt of written notice or, at a minimum, to commence curative measures within 24 hours and to exercise reasonable diligence to complete such measures as soon as possible thereafter. After receipt of the notice, the Parties agree to consult immediately and, if necessary, to inspect the arrangement.

- 5.10.1 Except in the case of the deployment of an advanced service which significantly degrades the performance of other advanced services or traditional voice band services, if Southeastern Services, Inc. fails to take curative action within 48 hours or if the violation is of a character which poses an immediate and substantial threat of damage to property, injury or death to any person, or any other significant degradation, interference or impairment of BellSouth's or another entity's service, then and only in that event BellSouth may take such action as it deems appropriate to correct the violation, including without limitation the interruption of electrical power to Southeastern Services, Inc.'s equipment. BellSouth will endeavor, but is not required, to provide notice to Southeastern Services, Inc. prior to taking such action and shall have no liability to Southeastern Services, Inc. for any damages arising from such action, except to the extent that such action by BellSouth constitutes willful misconduct.
- 5.10.2 For purposes of this Section, the term significantly degrade shall mean an action that noticeably impairs a service from a user's perspective. In the case of the deployment of an advanced service which significantly degrades the performance of other advanced services or traditional voice band services and Southeastern Services, Inc. fails to take curative action within 48 hours then BellSouth will establish before the relevant Commission that the technology deployment is causing the significant degradation. Any claims of network harm presented to Southeastern Services, Inc. or, if subsequently necessary, the relevant Commission must be supported with specific and verifiable information. Where BellSouth demonstrates that a deployed technology is significantly degrading the performance of other advanced services or traditional voice band services, Southeastern Services, Inc. shall discontinue deployment of that technology and migrate its customers to technologies that will not significantly degrade the performance of other such services. Where the only degraded service itself is a known disturber, and the newly deployed technology satisfies at least one of the criteria for a presumption that is acceptable for deployment

under section 47 C.F.R. 51.230, the degraded service shall not prevail against the newly-deployed technology.

- 5.11 Personalty and its Removal. Facilities and equipment placed by Southeastern Services, Inc. in the Collocation Space shall not become a part of the Collocation Space, even if nailed, screwed or otherwise fastened to the Collocation Space, but shall retain their status as personal property and may be removed by Southeastern Services, Inc. at any time. Any damage caused to the Collocation Space by Southeastern Services, Inc.'s employees, agents or representatives during the removal of such property shall be promptly repaired by Southeastern Services, Inc. at its expense.
- 5.12 Alterations. In no case shall Southeastern Services, Inc. or any person acting on behalf of Southeastern Services, Inc. make any rearrangement, modification, improvement, addition, or other alteration which could affect in any way space, power, HVAC, and/or safety considerations to the Collocation Space or the BellSouth Premises without the written consent of BellSouth, which consent shall not be unreasonably withheld. The cost of any such specialized alterations shall be paid by Southeastern Services, Inc.. Any such material rearrangement, modification, improvement, addition, or other alteration shall require a Subsequent Application and Subsequent Application Fee.
- 5.13 Janitorial Service. Southeastern Services, Inc. shall be responsible for the general upkeep of the Collocation Space. Southeastern Services, Inc. shall arrange directly with a BellSouth Certified Supplier for janitorial services applicable to Caged Collocation Space. BellSouth shall provide a list of such suppliers on a site-specific basis upon request.

## **6. Ordering and Preparation of Collocation Space**

- 6.1 Should any state or federal regulatory agency impose procedures or intervals applicable to Southeastern Services, Inc. that are different from procedures or intervals set forth in this section, whether now in effect or that become effective after execution of this Agreement, those procedures or intervals shall supersede the requirements set forth herein for that jurisdiction for all applications submitted for the first time after the effective date thereof.
- 6.2 Initial Application. For Southeastern Services, Inc. or Southeastern Services, Inc.'s Guest(s) initial equipment placement, Southeastern Services, Inc. shall submit to BellSouth a Physical Expanded Interconnection Application Document ("Application"). The Application is Bona Fide when it is complete and accurate, meaning that all required fields on the application are completed with the appropriate type of information. An application fee will apply.

- 6.3      Subsequent Application. In the event Southeastern Services, Inc. or Southeastern Services, Inc.'s Guest(s) desires to modify the use of the Collocation Space after Bona Fide Firm Order, Southeastern Services, Inc. shall complete an Application detailing all information regarding the modification to the Collocation Space ("Subsequent Application"). BellSouth shall determine what modifications, if any, to the Premises are required to accommodate the change requested by Southeastern Services, Inc. in the Application. Such necessary modifications to the Premises may include, but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, equipment additions, etc.
- 6.3.1    Subsequent Application Fee. The application fee paid by Southeastern Services, Inc. for its request to modify the use of the Collocation Space shall be dependent upon the level of assessment needed for the modification requested. Where the Subsequent Application does not require assessment for provisioning or construction work by BellSouth, no Subsequent Application fee will be required. The fee for a Subsequent Application where the modification requested has limited effect (e.g., requires limited assessment and no capital expenditure by BellSouth) shall be the Subsequent Application Fee as set forth in Exhibit C. If the modification requires capital expenditure assessment, a full Application Fee shall apply. The Subsequent Application is Bona Fide when it is complete and accurate, meaning that all required fields on the Application are completed with the appropriate type of information.
- 6.4      Space Preferences. If Southeastern Services, Inc. has previously requested and received a Space Availability Report for the Premises, Southeastern Services, Inc. may submit up to three (3) space preferences on their application identifying specific space identification numbers as referenced on the Space Availability Report. In the event that BellSouth can not accommodate the Southeastern Services, Inc.'s preference(s), Southeastern Services, Inc. may elect to accept the space allocated by BellSouth or may cancel its application and submit another application requesting additional preferences, which will be treated as a new application and an application fee will apply.
- 6.5      Space Availability Notification.
- 6.5.1    Unless otherwise specified, BellSouth will respond to an application within ten (10) calendar days as to whether space is available or not available within a BellSouth Premises. BellSouth will also respond as to whether the Application is Bona Fide and if it is not Bona Fide the items necessary to cause the Application to become Bona Fide. If the amount of space requested is not available, BellSouth will notify Southeastern Services, Inc. of the amount of space that is available and no Application Fee shall apply. When BellSouth's response includes an amount of space less than that requested by Southeastern Services, Inc., or differently configured, Southeastern Services, Inc. must resubmit its Application to reflect the actual space available.



- 6.5.2 BellSouth will respond to a Florida Application within fifteen (15) calendar days as to whether space is available or not available within a BellSouth Premises. BellSouth will also respond as to whether the Application is Bona Fide and if it is not Bona Fide the items necessary to cause the Application to become Bona Fide. If a lesser amount of space than requested is available, BellSouth will provide an Application Response for the amount of space that is available and an Application Fee will be assessed. When BellSouth's Application Response includes an amount of space less than that requested by Southeastern Services, Inc. or differently configured, Southeastern Services, Inc. must amend its Application to reflect the actual space available prior to submitting Bona Fide Firm Order.
- 6.5.3 BellSouth will respond to a Louisiana Application within ten (10) calendar days for space availability for one (1) to ten (10) Applications; fifteen (15) calendar days for eleven (11) to twenty (20) Applications; and for more than twenty (20) Applications, it is increased by five (5) calendar days for every five additional Applications received within five (5) business days. If the amount of space requested is not available, BellSouth will notify Southeastern Services, Inc. of the amount of space that is available and no Application Fee shall apply. When BellSouth's response includes an amount of space less than that requested by Southeastern Services, Inc. or differently configured, Southeastern Services, Inc. must resubmit its Application to reflect the actual space available. BellSouth will also respond as to whether the Application is Bona Fide and if it is not Bona Fide the items necessary to cause the Application to become Bona Fide.
- 6.6 Denial of Application. If BellSouth notifies Southeastern Services, Inc. that no space is available ("Denial of Application"), BellSouth will not assess an Application Fee. After notifying Southeastern Services, Inc. that BellSouth has no available space in the requested Premises, BellSouth will allow Southeastern Services, Inc., upon request, to tour the entire Premises within ten (10) calendar days of such Denial of Application. In order to schedule said tour within ten (10) calendar days, the request for a tour of the Premises must be received by BellSouth within five (5) calendar days of the Denial of Application.
- 6.7 Filing of Petition for Waiver. Upon Denial of Application BellSouth will timely file a petition with the Commission pursuant to 47 U.S.C. § 251(c)(6). BellSouth shall provide to the Commission any information requested by that Commission. Such information shall include which space, if any, BellSouth or any of BellSouth's affiliates have reserved for future use and a detailed description of the specific future uses for which the space has been reserved. Subject to an appropriate nondisclosure agreement or provision, BellSouth shall permit Southeastern Services, Inc. to inspect any floor plans or diagrams that BellSouth provides to the Commission.
- 6.8 Waiting List. On a first-come, first-served basis governed by the date of receipt of an Application or Letter of Intent, BellSouth will maintain a waiting list of requesting carriers who have either received a Denial of Application or, where it is publicly

known that the Premises is out of space, have submitted a Letter of Intent to collocate. BellSouth will notify the telecommunications carriers on the waiting list that can be accommodated by the amount of space that becomes available according to the position of the telecommunications carriers on said waiting list.

- 6.8.1 In Florida, on a first-come, first-served basis governed by the date of receipt of an Application or Letter of Intent, BellSouth will maintain a waiting list of requesting carriers who have either received a Denial of Application or, where it is publicly known that the Premises is out of space, have submitted a Letter of Intent to collocate. Sixty (60) days prior to space becoming available, if known, BellSouth will notify the Florida PSC and the telecommunications carriers on the waiting list by mail when space becomes available according to the position of telecommunications carrier on said waiting list. If not known sixty (60) days in advance, BellSouth shall notify the Florida PSC and the telecommunications carriers on the waiting list within two days of the determination that space is available. A CLEC that, upon denial of physical collocation, requests virtual collocation shall be automatically placed on the waiting list.
- 6.8.2 When space becomes available, Southeastern Services, Inc. must submit an updated, complete, and correct Application to BellSouth within 30 calendar days of such notification. If Southeastern Services, Inc. has originally requested caged collocation space and cageless collocation space becomes available, Southeastern Services, Inc. may refuse such space and notify BellSouth in writing within that time that Southeastern Services, Inc. wants to maintain its place on the waiting list without accepting such space. Southeastern Services, Inc. may accept an amount of space less than its original request by submitting an Application as set forth above, and upon request, may maintain its position on the waiting list for the remaining space that was initially requested. If Southeastern Services, Inc. does not submit such an Application or notify BellSouth in writing as described above, BellSouth will offer such space to the next CLEC on the waiting list and remove Southeastern Services, Inc. from the waiting list. Upon request, BellSouth will advise Southeastern Services, Inc. as to its position on the list.
- 6.9 Public Notification. BellSouth will maintain on its Interconnection Services website a notification document that will indicate all Central Offices that are without available space. BellSouth shall update such document within ten (10) calendar days of the date BellSouth becomes aware that there is insufficient space to accommodate physical collocation. BellSouth will also post a document on its Interconnection Services website that contains a general notice where space has become available in a Central Office previously on the space exhaust list.
- 6.10 Application Response.
- 6.10.1 In Alabama, Kentucky and North Carolina, when space has been determined to be available, BellSouth will provide a written response ("Application Response") within

twenty-three (23) business days of the receipt of a Bona Fide Application, which will include, at a minimum, the configuration of the space, the Cable Installation Fee, Cable Records Fee, and the space preparation fees, as described in Section 8.

- 6.10.2 In South Carolina and Mississippi, BellSouth will provide a written response (“Application Response”) within thirty (30) calendar days of receipt of a Bona Fide Application. The Application Response will include, at a minimum, the configuration of the space, the Cable Installation Fee, Cable Records Fee, and the space preparation fees, as described in Section 8. When multiple applications are submitted in a state within a fifteen (15) calendar day window, BellSouth will respond to the Bona Fide Applications as soon as possible, but no later than the following: within thirty (30) calendar days for Bona Fide Applications one (1) to five (5); within thirty-six (36) calendar days for Bona Fide Applications six (6) to ten (10); within forty-two (42) calendar days for Bona Fide Applications eleven (11) to fifteen (15). Response intervals for multiple Bona Fide Applications submitted within the same timeframe for the same state in excess of fifteen (15) must be negotiated. All negotiations shall consider the total volume from all requests from telecommunications companies for collocation.
- 6.10.3 In Tennessee, BellSouth will provide a written response (“Application Response”) within thirty (30) calendar days of receipt of a Bona Fide Application. The Application Response will include, at a minimum, the configuration of the space, the Cable Installation Fee, Cable Records Fee, and the space preparation fees, as described in Section 8.
- 6.10.4 In Florida, within fifteen (15) calendar days of receipt of a Bona Fide Application, when space has been determined to be available or when a lesser amount of space than that requested is available, then with respect to the space available, BellSouth will provide a written response (“Application Response”) including sufficient information to enable Southeastern Services, Inc. to place a Firm Order. The Application Response will include, at a minimum, the configuration of the space, the Cable Installation Fee, Cable Records Fee, and the space preparation fees, as described in Section 8. When Southeastern Services, Inc. submits ten (10) or more Applications within ten (10) calendar days, the initial fifteen (15) day response period will increase by ten (10) days for every additional ten (10) Applications or fraction thereof.
- 6.10.5 In Georgia, when space has been determined to be available for caged or cageless arrangements, BellSouth will provide a written response (“Application Response”) within twenty (20) calendar days of receipt of a Bona Fide Application. The Application Response will include, at a minimum, the configuration of the space, the Cable Installation Fee, Cable Records Fee, and the space preparation fees, as described in Section 8.

6.10.6 In Louisiana, when space has been determined to be available, BellSouth will provide a written response ("Application Response") within thirty (30) calendar days for one (1) to ten (10) Applications; thirty-five (35) calendar days for eleven (11) to twenty (20) Applications; and for requests of more than twenty (20) Application it is increased by five (5) calendar days for every five (5) Applications received within five (5) business days. The Application Response will include, at a minimum, the configuration of the space, the Cable Installation Fee, Cable Records Fee, and the space preparation fees, as described in Section 8.

6.11 Application Modifications.

6.11.1 If a modification or revision is made to any information in the Bona Fide Application prior to Bona Fide Firm Order, with the exception of modifications to Customer Information, Contact Information or Billing Contact Information, either at the request of Southeastern Services, Inc. or necessitated by technical considerations, said Application shall be considered a new Application and shall be handled as a new Application with respect to response and provisioning intervals and BellSouth may charge Southeastern Services, Inc. an application fee. Where the Application Modification does not require assessment for provisioning or construction work by BellSouth, no application fee will be required. The fee for an Application Modification where the modification requested has limited effect (e.g., requires limited assessment and no capital expenditure by BellSouth) shall be the Subsequent Application Fee as set forth in Exhibit C. Major changes such as requesting additional space or adding equipment may require Southeastern Services, Inc. to submit the Application with an Application Fee.

6.12 Bona Fide Firm Order.

6.12.1 In Alabama, Kentucky, North Carolina, and Tennessee, Southeastern Services, Inc. shall indicate its intent to proceed with equipment installation in a BellSouth Premises by submitting a Physical Expanded Interconnection Firm Order document ("Firm Order") to BellSouth. A Firm Order shall be considered Bona Fide when Southeastern Services, Inc. has completed the Application/Inquiry process described in Section 6, preceeding, and has submitted the Firm Order document indicating acceptance of the Application Response provided by BellSouth. The Bona Fide Firm Order must be received by BellSouth no later than five (5) business days after BellSouth's Application Response to Southeastern Services, Inc.'s Bona Fide Application.

6.12.2 Except as otherwise provided, in all States that have ordered provisioning intervals but not addressed Firm Order intervals, the following shall apply. Southeastern Services, Inc. shall indicate its intent to proceed with equipment installation in a BellSouth Premises by submitting a Firm Order to BellSouth. The Bona Fide Firm Order must be received by BellSouth no later than thirty (30) calendar days after

BellSouth's Application Response to Southeastern Services, Inc.'s Bona Fide Application or the Application will expire.

- 6.12.3 BellSouth will establish a firm order date based upon the date BellSouth is in receipt of a Bona Fide Firm Order. BellSouth will acknowledge the receipt of Southeastern Services, Inc.'s Bona Fide Firm Order within seven (7) calendar days of receipt indicating that the Bona Fide Firm Order has been received. A BellSouth response to a Bona Fide Firm Order will include a Firm Order Confirmation containing the firm order date. No revisions will be made to a Bona Fide Firm Order.

## **7. Construction and Provisioning**

### **7.1 Construction and Provisioning Intervals**

- 7.1.1 In Alabama (Caged Only), Kentucky, and North Carolina, BellSouth will complete construction for collocation arrangements within seventy-six (76) business days from receipt of an Application or as agreed to by the Parties. Under extraordinary conditions, BellSouth will complete construction for collocation arrangements within ninety-one (91) business days. Examples of extraordinary conditions include, but are not limited to, extended license or permitting intervals; major BellSouth equipment rearrangement or addition; power plant addition or upgrade; major mechanical addition or upgrade; major upgrade for ADA compliance; environmental hazard or hazardous materials abatement; and arrangements for which equipment shipping intervals are extraordinary in length. In the event Southeastern Services, Inc. submits a forecast as described in the following section three (3) months or more prior to the application date, the above intervals shall apply. In the event Southeastern Services, Inc. submits such a forecast between two (2) months and three (3) months prior to the application date, the above intervals may be extended by one (1) additional month. In the event Southeastern Services, Inc. submits such a forecast less than two (2) months prior to the application date, the above intervals may be extended by sixty (60) calendar days. BellSouth will attempt to meet standard intervals for unforecasted requests and any interval adjustments will be discussed with Southeastern Services, Inc. at the time the application is received. Raw space, which is space lacking the necessary infrastructure to provide collocation space including but not limited to HVAC, Power, etc.), conversion time frames fall outside the normal intervals and are negotiated on an individual case basis. Additionally, installations to existing collocation arrangements for line sharing or line splitting, which include adding cable, adding cable and splitter, and adding a splitter, will be forty five (45) business days from receipt of an Application.

- 7.1.1.1 To be considered a timely and accurate forecast, Southeastern Services, Inc. must submit to BellSouth the CLEC Forecast Form, as set forth in exhibit B attached hereto, containing the following information: Central Office/Serving Wire Center CLLI, number of Caged square feet and/or Cageless bays, number of DS0, DS1, DS3 frame terminations, number of fused amps and planned application date.

- 7.1.2 In Alabama (Cageless), BellSouth will complete construction for cageless collocation arrangements under ordinary conditions as soon as possible and within a maximum of sixty (60) calendar days from receipt of a Bona Fide Firm Order and ninety (90) calendar days for extraordinary conditions or as agreed to by the Parties. Ordinary conditions are defined as space available with only minor changes to support systems required, such as but not limited to, HVAC, cabling and the power plant(s). Extraordinary conditions are defined to include but are not limited to major BellSouth equipment rearrangement or addition; power plant addition or upgrade; major mechanical addition or upgrade; major upgrade for ADA compliance; environmental hazard or hazardous materials abatement; and arrangements for which equipment shipping intervals are extraordinary in length. The Parties may mutually agree to renegotiate an alternative provisioning interval or BellSouth may seek a waiver from this interval from the Commission.
- 7.1.3 In Florida, BellSouth will complete construction for collocation arrangements as soon as possible and within a maximum of ninety (90) calendar days from receipt of a Bona Fide Firm Order or as agreed to by the Parties. For changes to collocation space after initial space completion ("Augmentation"), BellSouth will complete construction for collocation arrangements as soon as possible and within a maximum of forty-five (45) calendar days from receipt of a Bona Fide Firm Order or as agreed to by the Parties. If BellSouth does not believe that construction will be completed within the relevant time frame and BellSouth and Southeastern Services, Inc. cannot agree upon a completion date, within forty-five (45) calendar days of receipt of the Bona Fide Firm Order for an initial request, and within thirty (30) calendar days for Augmentations, BellSouth may seek an extension from the Florida PSC.
- 7.1.4 In Georgia, BellSouth will complete construction for caged collocation arrangements under ordinary conditions as soon as possible and within a maximum of ninety (90) calendar days from receipt of a Bona Fide Firm Order or as agreed to by the Parties. BellSouth will complete construction for cageless collocation arrangements under ordinary conditions as soon as possible and within a maximum of sixty (60) calendar days from receipt of a Bona Fide Firm Order and ninety (90) calendar days for extraordinary conditions or as agreed to by the Parties. Ordinary conditions are defined as space available with only minor changes to support systems required, such as but not limited to, HVAC, cabling and the power plant(s). Extraordinary conditions are defined to include but are not limited to major BellSouth equipment rearrangement or addition; power plant addition or upgrade; major mechanical addition or upgrade; major upgrade for ADA compliance; environmental hazard or hazardous materials abatement; and arrangements for which equipment shipping intervals are extraordinary in length. The Parties may mutually agree to renegotiate an alternative provisioning interval or BellSouth may seek a waiver from this interval from the Commission.
- 7.1.5 In Louisiana, BellSouth will complete construction for collocation arrangements under ordinary conditions as soon as possible and within a maximum of ninety (90)

calendar days for caged and sixty (60) calendar days for cageless from receipt of a Bona Fide Firm Order for an initial request, and within sixty (60) calendar days for an Augmentation, or as agreed to by the Parties. Ordinary conditions are defined as space available with only minor changes to support systems required, such as but not limited to, HVAC, cabling and the power plant(s). BellSouth will complete construction of all other Collocation Space ("extraordinary conditions") within one hundred twenty (120) calendar days for caged and ninety (90) calendar days for cageless from the receipt of a Bona Fide Firm Order. Examples of extraordinary conditions include but are not limited to, extended license or permitting intervals; major BellSouth equipment rearrangement or addition; power plant addition or upgrade; major mechanical addition or upgrade; major upgrade for ADA compliance; environmental hazard or hazardous materials abatement; and arrangements for which equipment shipping intervals are extraordinary in length. The Parties may mutually agree to renegotiate an alternative provisioning interval or BellSouth may seek a waiver from this interval from the Commission.

- 7.1.6 In Mississippi, excluding the time interval required to secure the appropriate government licenses and permits, BellSouth will complete construction for collocation arrangements under ordinary conditions as soon as possible and within a maximum of ninety (90) calendar days from receipt of a Bona Fide Firm Order or as agreed to by the Parties. Ordinary conditions are defined as space available with only minor changes to support systems required, such as but not limited to, HVAC, cabling and the power plant(s). Excluding the time interval required to secure the appropriate government licenses and permits, BellSouth will complete construction of all other Collocation Space ("extraordinary conditions") within one hundred twenty (120) calendar days of the receipt of a Bona Fide Firm Order. Examples of extraordinary conditions include but are not limited to, extended license or permitting intervals; major BellSouth equipment rearrangement or addition; power plant addition or upgrade; major mechanical addition or upgrade; major upgrade for ADA compliance; environmental hazard or hazardous materials abatement; and arrangements for which equipment shipping intervals are extraordinary in length. The Parties may mutually agree to renegotiate an alternative provisioning interval or BellSouth may seek a waiver from this interval from the Commission.
- 7.1.7 In South Carolina, BellSouth will complete the construction and provisioning activities for cageless and caged collocation arrangements as soon as possible, but no later than ninety (90) calendar days from receipt of a bona fide firm order. The Parties may mutually agree to renegotiate an alternative provisioning interval or BellSouth may seek a waiver from this interval from the Commission.
- 7.1.8 In Tennessee, BellSouth will complete construction for collocation arrangements under Ordinary Conditions as follows: (i) for caged collocation arrangements, within a maximum of 90 calendar days from receipt of an Bona Fide Firm Order, or as agreed to by the Parties; (ii) for cageless collocation arrangements, within 30 calendar days from receipt of a Bona Fide Firm Order when there is conditioned space and

Southeastern Services, Inc. installs the bays/racks. In no event shall the provisioning interval for cageless collocation exceed 90 calendar days from the receipt of a Bona Fide Firm Order, or as agreed to by the parties. Under extraordinary conditions, BellSouth may elect to renegotiate an alternative provisioning interval with Southeastern Services, Inc. or seek a waiver from this interval from the Commission. For the purpose of defining conditioned space as referenced in the TRA order setting intervals for cageless collocation in Tennessee, conditioned space is defined as follows: i) floor space must be available; ii) floor space must be equipped with adequate air conditioning to accommodate equipment listed on application; iii) Cable racking, any fiber duct, riser cable support structure and power cable support structure must be in place to support equipment listed on the application; and iv) power plant capacity at BDFB or main power board must be available. If LGX or DGX equipment is requested on the application and adequate existing capacity is not available then conditioned is considered unavailable. If BellSouth is required by the application to place power cabling, conditioned space is considered unavailable.

- 7.2 Joint Planning. Joint planning between BellSouth and Southeastern Services, Inc. will commence within a maximum of twenty (20) calendar days from BellSouth's receipt of a Bona Fide Firm Order. BellSouth will provide the preliminary design of the Collocation Space and the equipment configuration requirements as reflected in the Bona Fide Application and affirmed in the Bona Fide Firm Order. The Collocation Space completion time period will be provided to Southeastern Services, Inc. during joint planning.
- 7.3 Permits. Each Party or its agents will diligently pursue filing for the permits required for the scope of work to be performed by that Party or its agents within ten (10) calendar days of the completion of finalized construction designs and specifications.
- 7.4 Acceptance Walk Through. Southeastern Services, Inc. will schedule and complete an acceptance walkthrough of each Collocation Space with BellSouth within fifteen (15) days of BellSouth's notifying Southeastern Services, Inc. that the collocation space is ready for occupancy. In the event that Southeastern Services, Inc. fails to complete an acceptance walkthrough within this fifteen (15) day interval, the Collocation Space shall be deemed accepted by Southeastern Services, Inc.. BellSouth will correct any deviations to Southeastern Services, Inc.'s original or jointly amended requirements within seven (7) calendar days after the walk through, unless the Parties jointly agree upon a different time frame.
- 7.5 Use of BellSouth Certified Supplier. Southeastern Services, Inc. shall select a supplier which has been approved as a BellSouth Certified Supplier to perform all engineering and installation work. Southeastern Services, Inc. and Southeastern Services, Inc.'s BellSouth Certified Supplier must follow and comply with all BellSouth requirements outlined in BellSouth's TR 73503, TR 73519, TR 73572, and TR 73564. In some cases, Southeastern Services, Inc. must select separate BellSouth Certified Suppliers for transmission equipment, switching equipment and power



equipment. BellSouth shall provide Southeastern Services, Inc. with a list of BellSouth Certified Suppliers upon request. The BellSouth Certified Supplier(s) shall be responsible for installing Southeastern Services, Inc.'s equipment and components, extending power cabling to the BellSouth power distribution frame, performing operational tests after installation is complete, and notifying BellSouth's equipment engineers and Southeastern Services, Inc. upon successful completion of installation, etc. The BellSouth Certified Supplier shall bill Southeastern Services, Inc. directly for all work performed for Southeastern Services, Inc. pursuant to this Attachment and BellSouth shall have no liability for nor responsibility to pay such charges imposed by the BellSouth Certified Supplier. BellSouth shall consider certifying Southeastern Services, Inc. or any supplier proposed by Southeastern Services, Inc.. All work performed by or for Southeastern Services, Inc. shall conform to generally accepted industry guidelines and standards.

- 7.6 Alarm and Monitoring. BellSouth shall place environmental alarms in the Premises for the protection of BellSouth equipment and facilities. Southeastern Services, Inc. shall be responsible for placement, monitoring and removal of environmental and equipment alarms used to service Southeastern Services, Inc.'s Collocation Space. Upon request, BellSouth will provide Southeastern Services, Inc. with applicable tariffed service(s) to facilitate remote monitoring of collocated equipment by Southeastern Services, Inc.. Both Parties shall use best efforts to notify the other of any verified environmental condition known to that Party.
- 7.7 Virtual to Physical Collocation Relocation. In the event physical collocation space was previously denied at a location due to technical reasons or space limitations, and physical collocation space has subsequently become available, Southeastern Services, Inc. may relocate its virtual collocation arrangements to physical collocation arrangements and pay the appropriate fees for physical collocation and for the rearrangement or reconfiguration of services terminated in the virtual collocation arrangement, as outlined in the appropriate BellSouth tariffs. In the event that BellSouth knows when additional space for physical collocation may become available at the location requested by Southeastern Services, Inc., such information will be provided to Southeastern Services, Inc. in BellSouth's written denial of physical collocation. To the extent that (i) physical Collocation Space becomes available to Southeastern Services, Inc. within 180 calendar days of BellSouth's written denial of Southeastern Services, Inc.'s request for physical collocation, (ii) BellSouth had knowledge that the space was going to become available, and (iii) Southeastern Services, Inc. was not informed in the written denial that physical Collocation Space would become available within such 180 calendar days, then Southeastern Services, Inc. may relocate its virtual collocation arrangement to a physical collocation arrangement and will receive a credit for any nonrecurring charges previously paid for such virtual collocation. Southeastern Services, Inc. must arrange with a BellSouth Certified Supplier for the relocation of equipment from its virtual Collocation Space to its physical Collocation Space and will bear the cost of such relocation.

- 7.8 Virtual to Physical Conversion (In Place). Virtual collocation arrangements may be converted to “in-place” physical arrangements if the potential conversion meets the following four criteria: 1) there is no change in the amount of equipment or the configuration of the equipment that was in the virtual collocation arrangement; 2) the conversion of the virtual collocation arrangement will not cause the equipment or the results of that conversion to be located in a space that BellSouth has reserved for its own future needs; 3) the converted arrangement does not limit BellSouth’s ability to secure its own equipment and facilities due to the location of the virtual collocation arrangement; and 4) any changes to the arrangement can be accommodated by existing power, HVAC, and other requirements. The application fee for the conversion from virtual to in-place, physical collocation is as set forth in Exhibit C. Unless otherwise specified, BellSouth will complete virtual to in-place physical collocation conversions within sixty (60) calendar days.
- 7.8.1 In Florida, for Virtual to Physical conversions in place that require no physical changes, the only applicable charges shall cover the administrative billing and engineering records updates.
- 7.8.2 In Tennessee, BellSouth will complete Virtual to Physical conversions in place within thirty (30) calendar days.
- 7.9 Cancellation. If, at anytime prior to space acceptance, Southeastern Services, Inc. cancels its order for the Collocation Space(s) (“Cancellation”), BellSouth will bill the applicable non-recurring rate for any and all work processes for which work has begun. In Georgia, if Southeastern Services, Inc. cancels its order for Collocation Space at any time prior to space acceptance, BellSouth will bill Southeastern Services, Inc. for all costs incurred prior to the date of Cancellation and for any costs incurred as a direct result of the Cancellation, not to exceed the total amount that would have been due had the order not been cancelled.
- 7.10 Licenses. Southeastern Services, Inc., at its own expense, will be solely responsible for obtaining from governmental authorities, and any other appropriate agency, entity, or person, all rights, privileges, and licenses necessary or required to operate as a provider of telecommunications services to the public or to occupy the Collocation Space.
- 7.11 Environmental Compliance. The Parties agree to utilize and adhere to the Environmental Hazard Guidelines identified as Exhibit A attached hereto.

## **8. Rates and Charges**

- 8.1 BellSouth shall assess an Application Fee via a service order, which shall be issued at the time BellSouth responds that space is available pursuant to Section 2. Payment of said Application Fee will be due as dictated by Southeastern Services, Inc.’s current billing cycle and is non-refundable.

- 8.1.1 In Tennessee the applicable Application Fee is the Planning Fee for both Applications and Subsequent Applications placed by Southeastern Services, Inc..

8.2 Space Preparation

- 8.2.1 Recurring Charges. The recurring charges for space preparation begin on the date Southeastern Services, Inc. executes the written document accepting the collocation space pursuant to section 4 or on the date Southeastern Services, Inc. first occupies collocation space, whichever is first. If Southeastern Services, Inc. fails to schedule and complete an acceptance walk through within fifteen (15) days after BellSouth releases the space for occupancy, BellSouth shall begin billing Southeastern Services, Inc. for recurring charges as of the sixteenth day after BellSouth releases the collocation space.
- 8.2.2 Space preparation fees consist of a nonrecurring charge for Firm Order Processing and monthly recurring charges for Central Office Modifications, assessed per arrangement, per square foot, and Common Systems Modifications, assessed per arrangement, per square foot for cageless collocation and per cage for caged collocation. Southeastern Services, Inc. shall remit payment of the nonrecurring Firm Order Processing Fee coincident with submission of a Bona Fide Firm Order. The charges recover the costs associated with preparing the Collocation Space, which includes survey, engineering of the Collocation Space, design and modification costs for network, building and support systems. In the event Southeastern Services, Inc. opts for cageless space, the space preparation fees will be assessed based on the total floor space dedicated to Southeastern Services, Inc. as prescribed in this Section 8.
- 8.2.3 Space Preparation Fee (Florida). Space preparation fees include a nonrecurring charge for Firm Order Processing and monthly recurring charges for Central Office Modifications, assessed per arrangement, per square foot, and Common Systems Modifications, assessed per arrangement, per square foot for cageless and per cage for caged collocation. Southeastern Services, Inc. shall remit payment of the nonrecurring Firm Order Processing Fee coincident with submission of a Bona Fide Firm Order. The charges recover the costs associated with preparing the Collocation Space, which includes survey, engineering of the Collocation Space, design and modification costs for network, building and support systems. In the event Southeastern Services, Inc. opts for cageless space, space preparation fees will be assessed based on the total floor space dedicated to Southeastern Services, Inc. as prescribed in this Section 8.
- 8.2.4 Space Preparation Fee (Georgia). In Georgia, the Space Preparation Fee is a one time fee, assessed per arrangement, per location. It recovers a portion of costs associated with preparing the Collocation Space, which includes survey, engineering of the Collocation Space, design and modification costs for network, power, building and support systems. This is a set fee of \$100 per square foot as established by the Georgia Public Service Commission Order in Docket No. 7016 U. In the event

Southeastern Services, Inc. opts for non enclosed space, the space preparation fee will be assessed based on the total floor space dedicated to Southeastern Services, Inc. as prescribed in Section 8 and will be billed based upon Southeastern Services, Inc.'s first billing cycle after Firm Order.

8.2.5 Space Preparation Fee (North Carolina). In North Carolina, space preparation fees consist of monthly recurring charges for Central Office Modifications, assessed per arrangement, per square foot; Common Systems Modifications, assessed per arrangement, per square foot for cageless and per cage for caged collocation; and Power, assessed per the nominal -48V DC ampere requirements specified by Southeastern Services, Inc. on the Bona Fide Application. The charges recover the costs associated with preparing the Collocation Space, which includes survey, engineering of the Collocation Space, design and modification costs for network, building and support systems. In the event Southeastern Services, Inc. opts for cageless space, the space preparation fees will be assessed based on the total floor space dedicated to Southeastern Services, Inc. as described in this Section 8.

8.3 Cable Installation. Cable Installation Fee(s) are assessed per entrance cable placed.

8.4 Floor Space. The Floor Space Charge includes reasonable charges for lighting, HVAC, and other allocated expenses associated with maintenance of the Premises but does not recover any power-related costs incurred by BellSouth. When the Collocation Space is enclosed, Southeastern Services, Inc. shall pay floor space charges based upon the number of square feet so enclosed. When the Collocation Space is not enclosed, Southeastern Services, Inc. shall pay floor space charges based upon the following floor space calculation:  $[(\text{depth of the equipment lineup in which the rack is placed}) + (0.5 \times \text{maintenance aisle depth}) + (0.5 \times \text{wiring aisle depth})] \times (\text{width of rack and spacers})$ . For purposes of this calculation, the depth of the equipment lineup shall consider the footprint of equipment racks plus any equipment overhang. BellSouth will assign unenclosed Collocation Space in conventional equipment rack lineups where feasible. In the event Southeastern Services, Inc.'s collocated equipment requires special cable racking, isolated grounding or other treatment which prevents placement within conventional equipment rack lineups, Southeastern Services, Inc. shall be required to request an amount of floor space sufficient to accommodate the total equipment arrangement.

8.4.1 The recurring charges for floor space begin on the date Southeastern Services, Inc. executes the written document accepting the collocation space pursuant to section 4 or on the date Southeastern Services, Inc. first occupies collocation space, whichever is first. If Southeastern Services, Inc. fails to schedule and complete an acceptance walk through within fifteen (15) days after BellSouth releases the space for occupancy, BellSouth shall begin billing Southeastern Services, Inc. for recurring charges as of the sixteenth day after BellSouth releases the collocation space.

- 8.5 Power. BellSouth shall make available -48 Volt (-48V) DC power for Southeastern Services, Inc.'s Collocation Space at a BellSouth Power Board or BellSouth Battery Distribution Fuse Bay ("BDFB") at Southeastern Services, Inc.'s option within the Premises.
- 8.5.1 Recurring charges for -48V DC power will be assessed per ampere per month based upon the BellSouth Certified Supplier engineered and installed power feed fused ampere capacity. Rates include redundant feeder fuse positions (A&B) and common cable rack to Southeastern Services, Inc.'s equipment or space enclosure. Recurring power charges begin on the Space Ready Date, or on the date Southeastern Services, Inc. first occupies the Collocation Space, whichever is sooner. When obtaining power from a BDFB, fuses and power cables (A&B) must be engineered (sized), and installed by Southeastern Services, Inc.'s BellSouth Certified Supplier. When obtaining power from a BellSouth power board, power cables (A&B) must be engineered (sized), and installed by Southeastern Services, Inc.'s BellSouth Certified power Supplier. Southeastern Services, Inc. is responsible for contracting with a BellSouth Certified Supplier for power distribution feeder cable runs from a BellSouth BDFB or power board to Southeastern Services, Inc.'s equipment. Determination of the BellSouth BDFB or BellSouth power board as the power source will be made at BellSouth's sole, but reasonable, discretion. The BellSouth Certified Supplier contracted by Southeastern Services, Inc. must provide BellSouth a copy of the engineering power specification prior to the day on which Southeastern Services, Inc.'s equipment becomes operational. BellSouth will provide the common power feeder cable support structure between the BellSouth BDFB or power board and Southeastern Services, Inc.'s arrangement area. Southeastern Services, Inc. shall contract with a BellSouth Certified Supplier who will be responsible for the following: dedicated power cable support structure within Southeastern Services, Inc.'s arrangement, power cable feeds, and terminations of cable. Any terminations at a BellSouth power board must be performed by a BellSouth Certified power Supplier. Southeastern Services, Inc. shall comply with all applicable National Electric Code (NEC), BellSouth TR73503, Telcordia (BellCore) and ANSI Standards regarding power cabling.
- 8.5.2 If BellSouth has not previously invested in power plant capacity for collocation at a specific site, Southeastern Services, Inc. has the option to add its own dedicated power plant; provided, however, that such work shall be performed by a BellSouth Certified Supplier who shall comply with BellSouth's guidelines and specifications. Where the addition of Southeastern Services, Inc.'s dedicated power plant results in construction of a new power plant room, upon termination of Southeastern Services, Inc.'s right to occupy collocation space at such site, Southeastern Services, Inc. shall have the right to remove its equipment from the power plant room, but shall otherwise leave the room intact.
- 8.5.3 If Southeastern Services, Inc. elects to install its own DC Power Plant, BellSouth shall provide AC power to feed Southeastern Services, Inc.'s DC Power Plant.

Charges for AC power will be assessed per breaker ampere per month. Rates include the provision of commercial and standby AC power. When obtaining power from a BellSouth service panel, protection devices and power cables must be engineered (sized), and installed by Southeastern Services, Inc.'s BellSouth Certified Supplier except that BellSouth shall engineer and install protection devices and power cables for Adjacent Collocation. Southeastern Services, Inc.'s BellSouth Certified Supplier must also provide a copy of the engineering power specification prior to the equipment becoming operational. Charges for AC power shall be assessed pursuant to the rates specified in Exhibit C. AC power voltage and phase ratings shall be determined on a per location basis. At Southeastern Services, Inc.'s option, Southeastern Services, Inc. may arrange for AC power in an Adjacent Collocation arrangement from a retail provider of electrical power.

- 8.5.4 In Tennessee, Recurring charges for -48V DC power consumption will be assessed per ampere per month based upon the engineered and installed power feed fused ampere capacity. Rates include redundant feeder fuse positions (A&B) and common cable rack to Southeastern Services, Inc.'s equipment or space enclosure. Southeastern Services, Inc. shall contract with a Certified Supplier who will be responsible for the following: dedicated power cable support structure within Southeastern Services, Inc.'s arrangement and terminations of cable within the collocation space.
- 8.5.5 In Tennessee, Non recurring charges for -48V DC power distribution will be based on the common power feeder cable support structure between the BellSouth BDFB and Southeastern Services, Inc.'s arrangement area.
- 8.5.6 In Louisiana, Southeastern Services, Inc. has the option to purchase power directly from an electric utility company. Under such an option, Southeastern Services, Inc. is responsible for contracting with the electric utility company for their own power feed and meter, and is financially responsible for purchasing all equipment necessary to accomplish the arrangement, including inverters, batteries, power boards, bus bars, BDFBs, backup power supplies and cabling. The actual work to install this arrangement must be performed by a certified vendor hired by Southeastern Services, Inc. Southeastern Services, Inc. must comply with all applicable safety codes, including the National Electric Safety Codes, in installing this power arrangement. Any floor space, cable racking, etc utilized by Southeastern Services, Inc. in provisioning said power will be billed on an ICB basis.
- 8.6 Security Escort. A security escort will be required whenever Southeastern Services, Inc. or its approved agent desires access to the entrance manhole or must have access to the Premises after the one accompanied site visit allowed pursuant to Section 5 prior to completing BellSouth's Security Training requirements. Rates for a security escort are assessed according to the schedule appended hereto as Exhibit C beginning with the scheduled escort time. BellSouth will wait for one-half (1/2) hour after the

scheduled time for such an escort and Southeastern Services, Inc. shall pay for such half-hour charges in the event Southeastern Services, Inc. fails to show up.

8.7 Cable Record charges. These charges apply for work required to build cable records in BellSouth systems. The VG/DS0 per cable record charge is for a maximum of 3600 records. The Fiber cable record charge is for a maximum of 99 records.

8.8 Other. If no rate is identified in the contract, the rate for the specific service or function will be negotiated by the Parties upon request by either Party. Payment of all other charges under this Attachment shall be due thirty (30) calendar days after receipt of the bill (payment due date). Southeastern Services, Inc. will pay a late payment charge of the lessor of one and one half percent or the legal interest rate assessed monthly on any balance which remains unpaid after the payment due date.

## 9. Insurance

9.1 Southeastern Services, Inc. shall, at its sole cost and expense, procure, maintain, and keep in force insurance as specified in this Section 9 and underwritten by insurance companies licensed to do business in the states applicable under this Attachment and having a Best's Insurance Rating of A-.

9.2 Southeastern Services, Inc. shall maintain the following specific coverage:

9.2.1 Commercial General Liability coverage in the amount of ten million dollars (\$10,000,000.00) or a combination of Commercial General Liability and Excess/Umbrella coverage totaling not less than ten million dollars (\$10,000,000.00). BellSouth shall be named as an Additional Insured on the Commercial General Liability policy as specified herein.

9.2.2 Statutory Workers Compensation coverage and Employers Liability coverage in the amount of one hundred thousand dollars (\$100,000.00) each accident, one hundred thousand dollars (\$100,000.00) each employee by disease, and five hundred thousand dollars (\$500,000.00) policy limit by disease.

9.2.3 All Risk Property coverage on a full replacement cost basis insuring all of Southeastern Services, Inc.'s real and personal property situated on or within BellSouth's Central Office location(s).

9.2.4 Southeastern Services, Inc. may elect to purchase business interruption and contingent business interruption insurance, having been advised that BellSouth assumes no liability for loss of profit or revenues should an interruption of service occur.

9.3 The limits set forth in Section 9.2 above may be increased by BellSouth from time to time during the term of this Attachment upon thirty (30) days notice to Southeastern

Services, Inc. to at least such minimum limits as shall then be customary with respect to comparable occupancy of BellSouth structures.

9.4 All policies purchased by Southeastern Services, Inc. shall be deemed to be primary and not contributing to or in excess of any similar coverage purchased by BellSouth. All insurance must be in effect on or before the date equipment is delivered to BellSouth's Premises and shall remain in effect for the term of this Attachment or until all Southeastern Services, Inc.'s property has been removed from BellSouth's Premises, whichever period is longer. If Southeastern Services, Inc. fails to maintain required coverage, BellSouth may pay the premiums thereon and seek reimbursement of same from Southeastern Services, Inc..

9.5 Southeastern Services, Inc. shall submit certificates of insurance reflecting the coverage required pursuant to this Section a minimum of ten (10) business days prior to the commencement of any work in the Collocation Space. Failure to meet this interval may result in construction and equipment installation delays. Southeastern Services, Inc. shall arrange for BellSouth to receive thirty (30) business days' advance notice of cancellation from Southeastern Services, Inc.'s insurance company. Southeastern Services, Inc. shall forward a certificate of insurance and notice of cancellation/non-renewal to BellSouth at the following address:

BellSouth Telecommunications, Inc.  
Attn.: Risk Management Coordinator  
17H53 BellSouth Center  
675 W. Peachtree Street  
Atlanta, Georgia 30375

9.6 Southeastern Services, Inc. must conform to recommendations made by BellSouth's fire insurance company to the extent BellSouth has agreed to, or shall hereafter agree to, such recommendations.

9.7 Self-Insurance. If Southeastern Services, Inc.'s net worth exceeds five hundred million dollars (\$500,000,000), Southeastern Services, Inc. may elect to request self-insurance status in lieu of obtaining any of the insurance required in Sections 9.2.1 and 9.2.2. Southeastern Services, Inc. shall provide audited financial statements to BellSouth thirty (30) days prior to the commencement of any work in the Collocation Space. BellSouth shall then review such audited financial statements and respond in writing to Southeastern Services, Inc. in the event that self-insurance status is not granted to Southeastern Services, Inc.. If BellSouth approves Southeastern Services, Inc. for self-insurance, Southeastern Services, Inc. shall annually furnish to BellSouth, and keep current, evidence of such net worth that is attested to by one of Southeastern Services, Inc.'s corporate officers. The ability to self-insure shall continue so long as the Southeastern Services, Inc. meets all of the requirements of this Section. If the Southeastern Services, Inc. subsequently no longer satisfies this



Section, Southeastern Services, Inc. is required to purchase insurance as indicated by Sections 9.2.1 and 9.2.2.

- 9.8 The net worth requirements set forth in Section 9.7 may be increased by BellSouth from time to time during the term of this Attachment upon thirty (30) days' notice to Southeastern Services, Inc. to at least such minimum limits as shall then be customary with respect to comparable occupancy of BellSouth structures.
- 9.9 Failure to comply with the provisions of this Section will be deemed a material breach of this Attachment.

**10. Mechanics Liens**

- 10.1 If any mechanics lien or other liens shall be filed against property of either Party (BellSouth or Southeastern Services, Inc.), or any improvement thereon by reason of or arising out of any labor or materials furnished or alleged to have been furnished or to be furnished to or for the other Party or by reason of any changes, or additions to said property made at the request or under the direction of the other Party, the other Party directing or requesting those changes shall, within thirty (30) business days after receipt of written notice from the Party against whose property said lien has been filed, either pay such lien or cause the same to be bonded off the affected property in the manner provided by law. The Party causing said lien to be placed against the property of the other shall also defend, at its sole cost and expense, on behalf of the other, any action, suit or proceeding which may be brought for the enforcement of such liens and shall pay any damage and discharge any judgment entered thereon.

**11. Inspections**

- 11.1 BellSouth may conduct an inspection of Southeastern Services, Inc.'s equipment and facilities in the Collocation Space(s) prior to the activation of facilities between Southeastern Services, Inc.'s equipment and equipment of BellSouth. BellSouth may conduct an inspection if Southeastern Services, Inc. adds equipment and may otherwise conduct routine inspections at reasonable intervals mutually agreed upon by the Parties. BellSouth shall provide Southeastern Services, Inc. with a minimum of forty-eight (48) hours or two (2) business days, whichever is greater, advance notice of all such inspections. All costs of such inspection shall be borne by BellSouth.

**12. Security and Safety Requirements**

- 12.1 Unless otherwise specified, Southeastern Services, Inc. will be required, at its own expense, to conduct a statewide investigation of criminal history records for each Southeastern Services, Inc. employee hired in the past five years being considered for work on the BellSouth Premises, for the states/counties where the Southeastern

Southeastern Services, Inc. employee has worked and lived for the past five years. Where state law does not permit statewide collection or reporting, an investigation of the applicable counties is acceptable. Southeastern Services, Inc. shall not be required to perform this investigation if an affiliated company of Southeastern Services, Inc. has performed an investigation of the Southeastern Services, Inc. employee seeking access, if such investigation meets the criteria set forth above. This requirement will not apply if Southeastern Services, Inc. has performed a pre-employment statewide investigation of criminal history records of the Southeastern Services, Inc. employee for the states/counties where the Southeastern Services, Inc. employee has worked and lived for the past five years or, where state law does not permit a statewide investigation, an investigation of the applicable counties.

- 12.2 Southeastern Services, Inc. will be required to administer to their personnel assigned to the BellSouth Premises security training either provided by BellSouth, or meeting criteria defined by BellSouth.
- 12.3 Southeastern Services, Inc. shall provide its employees and agents with picture identification, which must be worn, and visible at all times while in the Collocation Space or other areas in or around the Premises. The photo identification card shall bear, at a minimum, the employee's name and photo, and the Southeastern Services, Inc.'s name. BellSouth reserves the right to remove from its premises any employee of Southeastern Services, Inc. not possessing identification issued by Southeastern Services, Inc. or who has violated any of BellSouth's policies as outlined in the CLEC Security Training documents. Southeastern Services, Inc. shall hold BellSouth harmless for any damages resulting from such removal of its personnel from BellSouth premises. Southeastern Services, Inc. shall be solely responsible for ensuring that any Guest of Southeastern Services, Inc. is in compliance with all subsections of this Section 12.
- 12.4 Southeastern Services, Inc. shall not assign to the BellSouth Premises any personnel with records of felony criminal convictions. Southeastern Services, Inc. shall not assign to the BellSouth Premises any personnel with records of misdemeanor convictions, except for misdemeanor traffic violations, without advising BellSouth of the nature and gravity of the offense(s). BellSouth reserves the right to refuse building access to any Southeastern Services, Inc. personnel who have been identified to have misdemeanor criminal convictions. Notwithstanding the foregoing, in the event that Southeastern Services, Inc. chooses not to advise BellSouth of the nature and gravity of any misdemeanor conviction, Southeastern Services, Inc. may, in the alternative, certify to BellSouth that it shall not assign to the BellSouth Premises any personnel with records of misdemeanor convictions (other than misdemeanor traffic violations).
- 12.4.1 Southeastern Services, Inc. shall not knowingly assign to the BellSouth Premises any individual who was a former employee of BellSouth and whose employment with

BellSouth was terminated for a criminal offense whether or not BellSouth sought prosecution of the individual for the criminal offense.

- 12.4.2 Southeastern Services, Inc. shall not knowingly assign to the BellSouth Premises any individual who was a former supplier of BellSouth and whose access to a BellSouth Premises was revoked due to commission of a criminal offense whether or not BellSouth sought prosecution of the individual for the criminal offense.
- 12.5 For each Southeastern Services, Inc. employee or agent hired by Southeastern Services, Inc. within five years of being considered for work on the BellSouth Premises, who requires access to a BellSouth Premises pursuant to this agreement, Southeastern Services, Inc. shall furnish BellSouth, prior to an employee or agent gaining such access, a certification that the aforementioned background check and security training were completed. The certification will contain a statement that no felony convictions were found and certifying that the security training was completed by the employee. If the employee's criminal history includes misdemeanor convictions, Southeastern Services, Inc. will disclose the nature of the convictions to BellSouth at that time. In the alternative, Southeastern Services, Inc. may certify to BellSouth that it shall not assign to the BellSouth Premises any personnel with records of misdemeanor convictions other than misdemeanor traffic violations.
- 12.5.1 For all other Southeastern Services, Inc. employees requiring access to a BellSouth Premises pursuant to this Attachment, Southeastern Services, Inc. shall furnish BellSouth, prior to an employee gaining such access, a certification that the employee is not subject to the requirements of Section 12.5 above and that security training was completed by the employee.
- 12.6 At BellSouth's request, Southeastern Services, Inc. shall promptly remove from BellSouth's Premises any employee of Southeastern Services, Inc. BellSouth does not wish to grant access to its premises 1) pursuant to any investigation conducted by BellSouth or 2) prior to the initiation of an investigation if an employee of Southeastern Services, Inc. is found interfering with the property or personnel of BellSouth or another CLEC, provided that an investigation shall promptly be commenced by BellSouth.
- 12.7 Notification to BellSouth. BellSouth reserves the right to interview Southeastern Services, Inc.'s employees, agents, or contractors in the event of wrongdoing in or around BellSouth's property or involving BellSouth's or another CLEC's property or personnel, provided that BellSouth shall provide reasonable notice to Southeastern Services, Inc.'s Security contact of such interview. Southeastern Services, Inc. and its contractors shall reasonably cooperate with BellSouth's investigation into allegations of wrongdoing or criminal conduct committed by, witnessed by, or involving Southeastern Services, Inc.'s employees, agents, or contractors. Additionally, BellSouth reserves the right to bill Southeastern Services, Inc. for all reasonable costs associated with investigations involving its employees, agents, or contractors if it is

established and mutually agreed in good faith that Southeastern Services, Inc.'s employees, agents, or contractors are responsible for the alleged act. BellSouth shall bill Southeastern Services, Inc. for BellSouth property which is stolen or damaged where an investigation determines the culpability of Southeastern Services, Inc.'s employees, agents, or contractors and where Southeastern Services, Inc. agrees, in good faith, with the results of such investigation. Southeastern Services, Inc. shall notify BellSouth in writing immediately in the event that Southeastern Services, Inc. discovers one of its employees already working on the BellSouth premises is a possible security risk. Upon request of the other Party, the Party who is the employer shall discipline consistent with its employment practices, up to and including removal from BellSouth Premises, any employee found to have violated the security and safety requirements of this section. Southeastern Services, Inc. shall hold BellSouth harmless for any damages resulting from such removal of its personnel from BellSouth premises.

- 12.8 Use of Supplies. Unauthorized use of telecommunications equipment or supplies by either Party, whether or not used routinely to provide telephone service (e.g. plug-in cards,) will be strictly prohibited and handled appropriately. Costs associated with such unauthorized use may be charged to the offending Party, as may be all associated investigative costs.
- 12.9 Use of Official Lines. Except for non-toll calls necessary in the performance of their work, neither Party shall use the telephones of the other Party on the BellSouth Premises. Charges for unauthorized telephone calls may be charged to the offending Party, as may be all associated investigative costs.
- 12.10 Accountability. Full compliance with the Security requirements of this section shall in no way limit the accountability of either Party to the other for the improper actions of its employees.

**13. Destruction of Collocation Space**

- 13.1 In the event a Collocation Space is wholly or partially damaged by fire, windstorm, tornado, flood or by similar causes to such an extent as to be rendered wholly unsuitable for Southeastern Services, Inc.'s permitted use hereunder, then either Party may elect within ten (10) business days after such damage, to terminate occupancy of the damaged Collocation Space, and if either Party shall so elect, by giving the other written notice of termination, both Parties shall stand released of and from further liability under the terms hereof. If the Collocation Space shall suffer only minor damage and shall not be rendered wholly unsuitable for Southeastern Services, Inc.'s permitted use, or is damaged and the option to terminate is not exercised by either Party, BellSouth covenants and agrees to proceed promptly without expense to Southeastern Services, Inc., except for improvements not the property of BellSouth, to repair the damage. BellSouth shall have a reasonable time within which to rebuild or make any repairs, and such rebuilding and repairing shall be subject to delays

caused by storms, shortages of labor and materials, government regulations, strikes, walkouts, and causes beyond the control of BellSouth, which causes shall not be construed as limiting factors, but as exemplary only. Southeastern Services, Inc. may, at its own expense, accelerate the rebuild of its collocated space and equipment provided however that a BellSouth Certified Supplier is used and the necessary space preparation has been completed. Rebuild of equipment must be performed by a BellSouth Certified Supplier. If Southeastern Services, Inc.'s acceleration of the project increases the cost of the project, then those additional charges will be incurred by Southeastern Services, Inc.. Where allowed and where practical, Southeastern Services, Inc. may erect a temporary facility while BellSouth rebuilds or makes repairs. In all cases where the Collocation Space shall be rebuilt or repaired, Southeastern Services, Inc. shall be entitled to an equitable abatement of rent and other charges, depending upon the unsuitability of the Collocation Space for Southeastern Services, Inc.'s permitted use, until such Collocation Space is fully repaired and restored and Southeastern Services, Inc.'s equipment installed therein (but in no event later than thirty (30) business days after the Collocation Space is fully repaired and restored). Where Southeastern Services, Inc. has placed an Adjacent Arrangement pursuant to Section 3, Southeastern Services, Inc. shall have the sole responsibility to repair or replace said Adjacent Arrangement provided herein. Pursuant to this section, BellSouth will restore the associated services to the Adjacent Arrangement.

**14. Eminent Domain**

- 14.1 If the whole of a Collocation Space or Adjacent Arrangement shall be taken by any public authority under the power of eminent domain, then this Attachment shall terminate with respect to such Collocation Space or Adjacent Arrangement as of the day possession shall be taken by such public authority and rent and other charges for the Collocation Space or Adjacent Arrangement shall be paid up to that day with proportionate refund by BellSouth of such rent and charges as may have been paid in advance for a period subsequent to the date of the taking. If any part of the Collocation Space or Adjacent Arrangement shall be taken under eminent domain, BellSouth and Southeastern Services, Inc. shall each have the right to terminate this Attachment with respect to such Collocation Space or Adjacent Arrangement and declare the same null and void, by written notice of such intention to the other Party within ten (10) business days after such taking.

**15. Nonexclusivity**

- 15.1 Southeastern Services, Inc. understands that this Attachment is not exclusive and that BellSouth may enter into similar agreements with other Parties. Assignment of space pursuant to all such agreements shall be determined by space availability and made on a first come, first served basis

## ENVIRONMENTAL AND SAFETY PRINCIPLES

The following principles provide basic guidance on environmental and safety issues when applying for and establishing Physical Collocation arrangements.

### 1. GENERAL PRINCIPLES

- 1.1 Compliance with Applicable Law. BellSouth and Southeastern Services, Inc. agree to comply with applicable federal, state, and local environmental and safety laws and regulations including U.S. Environmental Protection Agency (USEPA) regulations issued under the Clean Air Act (CAA), Clean Water Act (CWA), Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Superfund Amendments and Reauthorization Act (SARA), the Toxic Substances Control Act (TSCA), and OSHA regulations issued under the Occupational Safety and Health Act of 1970, as amended and NFPA and National Electrical Codes (NEC) and the NESC ("Applicable Laws"). Each Party shall notify the other if compliance inspections are conducted by regulatory agencies and/or citations are issued that relate to any aspect of this Attachment.
- 1.2 Notice. BellSouth and Southeastern Services, Inc. shall provide notice to the other, including Material Safety Data Sheets (MSDSs), of known and recognized physical hazards or Hazardous Chemicals existing on site or brought on site. Each Party is required to provide specific notice for known potential Imminent Danger conditions. Southeastern Services, Inc. should contact 1-800-743-6737 for BellSouth MSDS sheets.
- 1.3 Practices/Procedures. BellSouth may make available additional environmental control procedures for Southeastern Services, Inc. to follow when working at a BellSouth Premises (See Section 2, below). These practices/procedures will represent the regular work practices required to be followed by the employees and contractors of BellSouth for environmental protection. Southeastern Services, Inc. will require its contractors, agents and others accessing the BellSouth Premises to comply with these practices. Section 2 lists the Environmental categories where BST practices should be followed by Southeastern Services, Inc. when operating in the BellSouth Premises.
- 1.4 Environmental and Safety Inspections. BellSouth reserves the right to inspect the Southeastern Services, Inc. space with proper notification. BellSouth reserves the right to stop any Southeastern Services, Inc. work operation that imposes Imminent Danger to the environment, employees or other persons in the area or Facility.
- 1.5 Hazardous Materials Brought On Site. Any hazardous materials brought into, used,

stored or abandoned at the BellSouth Premises by Southeastern Services, Inc. are owned by Southeastern Services, Inc.. Southeastern Services, Inc. will indemnify BellSouth for claims, lawsuits or damages to persons or property caused by these materials. Without prior written BellSouth approval, no substantial new safety or environmental hazards can be created by Southeastern Services, Inc. or different hazardous materials used by Southeastern Services, Inc. at BellSouth Facility. Southeastern Services, Inc. must demonstrate adequate emergency response capabilities for its materials used or remaining at the BellSouth Facility.

- 1.6 Spills and Releases. When contamination is discovered at a BellSouth Premises, the Party discovering the condition must notify BellSouth. All Spills or Releases of regulated materials will immediately be reported by Southeastern Services, Inc. to BellSouth.
- 1.7 Coordinated Environmental Plans and Permits. BellSouth and Southeastern Services, Inc. will coordinate plans, permits or information required to be submitted to government agencies, such as emergency response plans, spill prevention control and countermeasures (SPCC) plans and community reporting. If fees are associated with filing, BellSouth and Southeastern Services, Inc. will develop a cost sharing procedure. If BellSouth's permit or EPA identification number must be used, Southeastern Services, Inc. must comply with all of BellSouth's permit conditions and environmental processes, including environmental "best management practices (BMP)" (see Section 2, below) and/or selection of BST disposition vendors and disposal sites.
- 1.8 Environmental and Safety Indemnification. BellSouth and Southeastern Services, Inc. shall indemnify, defend and hold harmless the other Party from and against any claims (including, without limitation, third-party claims for personal injury or death or real or personal property damage), judgments, damages, (including direct and indirect damages, and punitive damages), penalties, fines, forfeitures, costs, liabilities, interest and losses arising in connection with the violation or alleged violation of any Applicable Law or contractual obligation or the presence or alleged presence of contamination arising out of the acts or omissions of the indemnifying Party, its agents, contractors, or employees concerning its operations at the Facility.

## **2. CATEGORIES FOR CONSIDERATION OF ENVIRONMENTAL ISSUES**

- 2.1 When performing functions that fall under the following Environmental categories on BellSouth's Premises, Southeastern Services, Inc. agrees to comply with the applicable sections of the current issue of BellSouth's Environmental and Safety Methods and Procedures (M&Ps), incorporated herein by this reference. Southeastern Services, Inc. further agrees to cooperate with BellSouth to ensure that Southeastern Services, Inc.'s employees, agents, and/or subcontractors are knowledgeable of and satisfy those provisions of BellSouth's Environmental M&Ps which apply to the

specific Environmental function being performed by Southeastern Services, Inc., its employees, agents and/or subcontractors.

- 2.2 The most current version of reference documentation must be requested from BellSouth.

<b>ENVIRONMENTAL CATEGORIES</b>	<b>ENVIRONMENTAL ISSUES</b>	<b>ADDRESSED BY THE FOLLOWING DOCUMENTATION</b>
Disposal of hazardous material or other regulated material (e.g., batteries, fluorescent tubes, solvents & cleaning materials)	Compliance with all applicable local, state, & federal laws and regulations  Pollution liability insurance  EVET approval of contractor	Std T&C 450 Fact Sheet Series 17000  Std T&C 660-3  Approved Environmental Vendor List (Contact E/S Management)
Emergency response	Hazmat/waste release/spill fire safety emergency	Fact Sheet Series 1700 Building Emergency Operations Plan (EOP) (specific to and located on Premises)
Contract labor/outsourcing for services with environmental implications to be performed on BellSouth Premises (e.g., disposition of hazardous material/waste; maintenance of storage tanks)	Compliance with all applicable local, state, & federal laws and regulations  Performance of services in accordance with BST's environmental M&Ps  Insurance	Std T&C 450  Std T&C 450-B (Contact E/S for copy of appropriate E/S M&Ps.)  Std T&C 660
Transportation of hazardous material	Compliance with all applicable local, state, & federal laws and regulations  Pollution liability insurance  EVET approval of contractor	Std T&C 450 Fact Sheet Series 17000  Std T&C 660-3  Approved Environmental Vendor List (Contact E/S Management)



Maintenance/operations work which may produce a waste	Compliance with all application local, state, & federal laws and regulations	Std T&C 450
Other maintenance work	Protection of BST employees and equipment	29CFR 1910.147 (OSHA Standard) 29CFR 1910 Subpart O (OSHA Standard)
Janitorial services	All waste removal and disposal must conform to all applicable federal, state and local regulations  All Hazardous Material and Waste  Asbestos notification and protection of employees and equipment	P&SM Manager - Procurement  Fact Sheet Series 17000  GU-BTEN-001BT, Chapter 3 BSP 010-170-001BS (Hazcom)
Manhole cleaning	Compliance with all applicable local, state, & federal laws and regulations  Pollution liability insurance  EVET approval of contractor	Std T&C 450 Fact Sheet 14050 BSP 620-145-011PR Issue A, August 1996  Std T&C 660-3  Approved Environmental Vendor List (Contact E/S Management)
Removing or disturbing building materials that may contain asbestos	Asbestos work practices	GU-BTEN-001BT, Chapter 3

### 3. DEFINITIONS

Generator. Under RCRA, the person whose act produces a Hazardous Waste, as defined in 40 CFR 261, or whose act first causes a Hazardous Waste to become subject to regulation. The Generator is legally responsible for the proper management and disposal of Hazardous Wastes in accordance with regulations.

Hazardous Chemical. As defined in the U.S. Occupational Safety and Health (OSHA) hazard communication standard (29 CFR 1910.1200), any chemical which is a health hazard or physical hazard.

Hazardous Waste. As defined in section 1004 of RCRA.

Imminent Danger. Any conditions or practices at a facility which are such that a danger exists which could reasonably be expected to cause immediate death or serious harm to people or immediate significant damage to the environment or natural resources.

Spill or Release. As defined in Section 101 of CERCLA.

#### **4. ACRONYMS**

E/S – Environmental/Safety

EVET - Environmental Vendor Evaluation Team

DEC/LDEC - Department Environmental Coordinator/Local Department Environmental Coordinator

GU-BTEN-001BT - BellSouth Environmental Methods and Procedures

NESC - National Electrical Safety Codes

P&SM - Property & Services Management

Std. T&C - Standard Terms & Conditions

### THREE MONTH CLEC FORECAST

CLEC NAME \_\_\_\_\_ DATE \_\_\_\_\_

STATE	Central Office/City	CAGE- LESS # Bays	CAGE- LESS # Standard Bays	CAGE- LESS # Non- Standard Bays	FRAME TERMINATION ONS	CLEC Provided BDFB— Amps Load	BST Provided BDFB— Amps Load	Heat Dissipation BTU/Hour	Entrance Facilities # sheaths & # fibers	Proposed Application Date	NOTES

\*Standard bays are defined as racks, bays or cabinets, including equipment and cable, with measurements equal to or less than the following:  
Width - 26", Depth - 25". The standard height for all collocated equipment bays in BellSouth is 7' 0".  
\*\* Any forecast for non-standard cageless bays must include an attachment describing the quantity and width and depth measurements.

**Notes:** Forecast information will be used for no other purpose than collocation planning.  
Forecast with application dates greater than 3 months from the date of submission will not guarantee the reservation of space in the office requested.

[illegible]

**BellSouth/Southeastern Services  
COLLOCATION  
Tennessee**

Attachment 4  
Exhibit C

CATEGORY	NOTE	Interim Indicator	Zone	BCS	USOC	RATES			OSS RATES																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																							
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- Interim rates which are subject to true-up:



**EXHIBIT NO. AWG -7**  
**Network Telephone**  
**Remote Site Interconnection Agreement**



## **Remote Site Physical Collocation**

**BELLSOUTH**  
**REMOTE SITE PHYSICAL COLLOCATION**

**1. Scope of Attachment**

- 1.1 Scope of Attachment. The rates, terms, and conditions contained within this Attachment shall only apply when Network Telephone Corporation is occupying the Remote Collocation Space as a sole occupant or as a Host within a Remote Site Location.
- 1.2 Right to occupy. BellSouth shall offer to Network Telephone Corporation Remote Site Collocation on rates, terms, and conditions that are just, reasonable, non-discriminatory and consistent with the rules of the Federal Communications Commission ("FCC"). Subject to the rates, terms, and conditions of this Attachment, BellSouth hereby grants to Network Telephone Corporation a right to occupy that certain area designated by BellSouth within a BellSouth Remote Site Location, of a size which is specified by Network Telephone Corporation and agreed to by BellSouth (hereinafter "Remote Collocation Space"). BellSouth Remote Site Locations include cabinets, huts, and controlled environmental vaults owned or leased by BellSouth that house BellSouth Network Facilities. To the extent this Attachment does not include all the necessary rates, terms and conditions for BellSouth remote locations other than cabinets, huts and controlled environmental vaults, the Parties will negotiate said rates, terms, and conditions at the request for collocation at BellSouth remote locations other than those specified above.
- 1.2.1 In all states other than Florida, the number of racks/bays specified by Network Telephone Corporation may contemplate a request for space sufficient to accommodate Network Telephone Corporation's growth within a two year period.
- 1.2.2 In the state of Florida, the number of racks/bays specified by Network Telephone Corporation may contemplate a request for space sufficient to accommodate Network Telephone Corporation's growth within an eighteen (18) month period.
- 1.2.3 Neither BellSouth nor any of BellSouth's affiliates may reserve space for future use on more preferential terms than those set forth above.
- 1.3 Third Party Property. If the Premises, or the property on which it is located, is leased by BellSouth from a Third Party or otherwise controlled by a Third Party, special considerations and intervals may apply in addition to the terms and conditions of this Agreement. Additionally, where BellSouth notifies Network Telephone Corporation that BellSouth's agreement with a Third Party does not grant BellSouth the ability to

provide access and use rights to others, upon Network Telephone Corporation's request, BellSouth will use its best efforts to obtain the owner's consent and to otherwise secure such rights for Network Telephone Corporation. Network Telephone Corporation agrees to reimburse BellSouth for the reasonable and demonstrable costs incurred by BellSouth in obtaining such rights for Network Telephone Corporation. In cases where a Third Party agreement does not grant BellSouth the right to provide access and use rights to others as contemplated by this Agreement and BellSouth, despite its best efforts, is unable to secure such access and use rights for Network Telephone Corporation as above, Network Telephone Corporation shall be responsible for obtaining such permission to access and use such property. BellSouth shall cooperate with Network Telephone Corporation in obtaining such permission.

- 1.4 Space Reclamation. In the event of space exhaust within a Remote Site Location, BellSouth may include in its documentation for the Petition for Waiver filing any vacant space in the Remote Site Location. Network Telephone Corporation will be responsible for any justification of vacant space within its Remote Collocation Space, if such justification is required by the appropriate state commission.
- 1.5 Use of Space. Network Telephone Corporation shall use the Remote Collocation Space for the purposes of installing, maintaining and operating Network Telephone Corporation's equipment (to include testing and monitoring equipment) necessary, for interconnection with BellSouth services and facilities, including access to unbundled network elements, for the provision of telecommunications services. The Remote Collocation Space may be used for no other purposes except as specifically described herein or authorized in writing by BellSouth.
- 1.6 Rates and charges. Network Telephone Corporation agrees to pay the rates and charges identified in Exhibit A attached hereto.
- 1.7 Due Dates. In all states except Georgia, if any due date contained in this Attachment falls on a weekend or holiday, then the due date will be the next business day thereafter.

## **2. Space Availability Report**

- 2.1 Reporting. Upon request from Network Telephone Corporation, BellSouth will provide a written report ("Space Availability Report") specifying the amount of Remote Collocation Space available at the Remote Site Location requested, the number of collocators present at the Remote Site Location, any modifications in the use of the space since the last report on the Remote Site Location requested and the measures BellSouth is taking to make additional space available for collocation arrangements.

- 2.1.1 The request from Network Telephone Corporation for a Space Availability Report must be written and must include the Common Language Location Identification (“CLLI”) code for both the Remote Site Location and the serving central office. Such information regarding the CLLI code for the serving central offices located in the National Exchange Carriers Association (NECA) Tariff FCC No. 4. If Network Telephone Corporation is unable to obtain the CLLI code, from for example a site visit to the remote site, Network Telephone Corporation may request the CLLI code from BellSouth. To obtain a CLLI code for a remote site directly from BellSouth, Network Telephone Corporation should submit to BellSouth a Remote Site Interconnection Request for Remote Site CLLI Code prior to submitting its request for a Space Availability Report. Network Telephone Corporation should complete all the requested information and submit the Request with the applicable fee to BellSouth.
- 2.1.2 BellSouth will respond to a request for a Space Availability Report for a particular Remote Site Location within ten (10) calendar days of receipt of such request. This interval excludes national holidays. BellSouth will make best efforts to respond in ten (10) calendar days to such a request when the request includes from two (2) to five (5) Remote Site Locations within the same state. The response time for requests of more than five (5) Remote Site Locations shall be negotiated between the Parties. If BellSouth cannot meet the ten calendar day response time, BellSouth shall notify Network Telephone Corporation and inform Network Telephone Corporation of the time frame under which it can respond. In Mississippi, the above intervals shall be in business days.

### **3. Collocation Options**

- 3.1 Compliance. The parties agree to comply with all applicable federal, state, county, local and administrative laws, orders, rules, ordinances, regulations, and codes in the performance of their obligations hereunder.
- 3.2 Cageless. BellSouth shall allow Network Telephone Corporation to collocate Network Telephone Corporation’s equipment and facilities without requiring the construction of a cage or similar structure. BellSouth shall allow Network Telephone Corporation to have direct access to its equipment and facilities. BellSouth shall make cageless collocation available in single rack/bay increments. For equipment requiring special technical considerations, Network Telephone Corporation must provide the equipment layout, including spatial dimensions for such equipment pursuant to generic requirements contained in BellCore (Telcordia) GR-63-Core and shall be responsible for constructing all special technical requirements associated with such equipment pursuant to **Section 6**, following. Subject to space availability and technical feasibility, at Network Telephone Corporation’s option, Network Telephone Corporation may enclose its equipment.
- 3.3 Shared (Subleased) Collocation. Network Telephone Corporation may allow other telecommunications carriers to share Network Telephone Corporation’s Remote

Collocation Space pursuant to terms and conditions agreed to by Network Telephone Corporation ("Host") and other telecommunications carriers ("Guests") and pursuant to this section, except where the BellSouth Remote Site Location is located within a leased space and BellSouth is prohibited by said lease from offering such an option or is located on property for which BellSouth holds an easement and such easement does not permit such an option. Network Telephone Corporation shall notify BellSouth in writing upon execution of any agreement between the Host and its Guest within ten (10) calendar days (in Mississippi, 10 business days) of its execution and prior to any Firm Order. Further, such notice shall include the name of the Guest(s) and the term of the agreement, and shall contain a certification by Network Telephone Corporation that said agreement imposes upon the Guest(s) the same terms and conditions for Remote Collocation Space as set forth in this Attachment between BellSouth and Network Telephone Corporation.

- 3.3.1 Network Telephone Corporation shall be the sole interface and responsible Party to BellSouth for assessment of rates and charges contained within this Attachment; and for the purposes of ensuring that the safety and security requirements of this Attachment are fully complied with by the Guest, its employees and agents. BellSouth shall provide Network Telephone Corporation with a proration of the costs of the collocation space based on the number of collocators and the space used by each. In all states other than Florida, and in addition to the foregoing, Network Telephone Corporation shall be the responsible party to BellSouth for the purpose of submitting Applications for initial and additional equipment placement of Guest. In the event the Host and Guest jointly submit an Application, only one Application Fee will be assessed. A separate Guest Application shall require the assessment of an Application Fee, as set forth in Exhibit A. Notwithstanding the foregoing, Guest may arrange directly with BellSouth for the provision of the interconnecting facilities between BellSouth and Guest and for the provision of the services and access to unbundled network elements.
- 3.3.2 Network Telephone Corporation shall indemnify and hold harmless BellSouth from any and all claims, actions, causes of action, of whatever kind or nature arising out of the presence of Network Telephone Corporation's Guests in the Remote Collocation Space except to the extent caused by BellSouth's sole negligence, gross negligence, or willful misconduct.
- 3.4 Adjacent Collocation. Subject to technical feasibility and space availability, BellSouth will provide approval for adjacent Remote Site collocation arrangements ("Remote Site Adjacent Arrangement") where space within the Remote Site Location is legitimately exhausted, where the Remote Site Adjacent Arrangement does not interfere with access to existing or planned structures or facilities on the Remote Site Location property. The Remote Site Adjacent Arrangement shall be constructed or procured by Network Telephone Corporation and in conformance with BellSouth's design and construction specifications. Further, Network Telephone Corporation shall construct, procure, maintain and operate said Remote Site Adjacent Arrangement(s)

pursuant to all of the terms and conditions set forth in this Attachment. Rates shall be negotiated at the time of the request for the Remote Site Adjacent Arrangement.

- 3.4.1 Should Network Telephone Corporation elect such an option, Network Telephone Corporation must arrange with a BellSouth Certified Contractor to construct a Remote Site Adjacent Arrangement structure in accordance with BellSouth's guidelines and specifications. BellSouth will provide guidelines and specifications upon request. Where local building codes require enclosure specifications more stringent than BellSouth's standard specification, Network Telephone Corporation and Network Telephone Corporation's BellSouth Certified Contractor must comply with local building code requirements. Network Telephone Corporation's BellSouth Certified Contractor shall be responsible for filing and receiving any and all necessary zoning, permits and/or licenses for such construction. Network Telephone Corporation's BellSouth Certified Contractor shall bill Network Telephone Corporation directly for all work performed for Network Telephone Corporation pursuant to this Attachment and BellSouth shall have no liability for nor responsibility to pay such charges imposed by the BellSouth Certified Contractor. Network Telephone Corporation must provide the local BellSouth Remote Site Location contact with two cards, keys or other access device used to enter the locked enclosure. Except in cases of emergency, BellSouth shall not access Network Telephone Corporation's locked enclosure prior to notifying Network Telephone Corporation.
- 3.4.2 BellSouth maintains the right to review Network Telephone Corporation's plans and specifications prior to construction of a Remote Site Adjacent Arrangement(s). BellSouth shall complete its review within fifteen (15) calendar days. BellSouth may inspect the Remote Site Adjacent Arrangement(s) following construction and prior to the Commencement Date, as defined in **Section 4** following, to ensure the design and construction comply with BellSouth's guidelines and specifications. BellSouth may require Network Telephone Corporation, at Network Telephone Corporation's sole cost, to correct any deviations from BellSouth's guidelines and specifications found during such inspection(s), up to and including removal of the Remote Site Adjacent Arrangement, within seven (7) calendar days of BellSouth's inspection, unless the Parties mutually agree to an alternative time frame.
- 3.4.3 Network Telephone Corporation shall provide a concrete pad, the structure housing the arrangement, heating/ventilation/air conditioning ("HVAC"), lighting, and all facilities that connect the structure (i.e. racking, conduits, etc.) to the BellSouth point of demarcation. At Network Telephone Corporation's option, and where the local authority having jurisdiction permits, BellSouth shall provide an AC power source and access to physical collocation services and facilities subject to the same nondiscriminatory requirements as applicable to any other physical collocation arrangement. Network Telephone Corporation's BellSouth Certified Contractor shall be responsible, at Network Telephone Corporation's expense, for filing and receiving any and all necessary zoning, permits and/or licenses for such arrangement.

- 3.4.4 BellSouth shall allow Shared (Subleased) Collocation within a Remote Site Adjacent Arrangement pursuant to the terms and conditions set forth herein.

#### **4 Occupancy**

- 4.1 Occupancy. BellSouth will notify Network Telephone Corporation in writing that the Remote Collocation Space is ready for occupancy. Network Telephone Corporation must notify BellSouth in writing that collocation equipment installation is complete. BellSouth may, at its option, not accept orders for interconnected service until receipt of such notice.
- 4.2 Termination of Occupancy. In addition to any other provisions addressing termination of occupancy in this Agreement, Network Telephone Corporation may terminate occupancy in a particular Remote Site Location by submitting a Subsequent Application requesting termination of occupancy. A Subsequent Application Fee will not apply for termination of occupancy.
- 4.2.1 Upon termination of occupancy, Network Telephone Corporation at its expense shall remove its equipment and other property from the Remote Collocation Space. Network Telephone Corporation shall have thirty (30) calendar days from the termination date to complete such removal, including the removal of all equipment and facilities of Network Telephone Corporation's Guests, unless Network Telephone Corporation's Guest has assumed responsibility for the collocation space housing the Guest's equipment and executed the documentation required by BellSouth prior to such removal date; provided, however, that Network Telephone Corporation shall continue payment of monthly fees to BellSouth until such date as Network Telephone Corporation, and if applicable Network Telephone Corporation's Guest, has fully vacated the Remote Collocation Space. Should Network Telephone Corporation or Network Telephone Corporation's Guest fail to vacate the Remote Collocation Space within thirty (30) calendar days from the termination date, BellSouth shall have the right to remove the equipment and other property of Network Telephone Corporation or Network Telephone Corporation's Guest at Network Telephone Corporation's expense and with no liability for damage or injury to Network Telephone Corporation or Network Telephone Corporation's Guest's property unless caused by the gross negligence or intentional misconduct of BellSouth. Upon termination of occupancy with respect to a Remote Collocation Space, Network Telephone Corporation shall surrender such Remote Collocation Space to BellSouth in the same condition as when first occupied by the Network Telephone Corporation except for ordinary wear and tear unless otherwise agreed to by the Parties. Network Telephone Corporation shall be responsible for the cost of removing any enclosure, together with all support structures (e.g., racking, conduits), of a Remote Site Adjacent Arrangement at the termination of occupancy and restoring the grounds to their original condition.

## **5 Use of Remote Collocation Space**

- 5.1 Equipment Type. BellSouth permits the collocation of any type of equipment necessary for interconnection to BellSouth's network or for access to unbundled network elements in the provision of telecommunications services.
- 5.1.1 Such equipment must at a minimum meet the following BellCore (Telcordia) Network Equipment Building Systems (NEBS) General Equipment Requirements: Criteria Level 3 requirements as outlined in the BellCore (Telcordia) Special Report SR-3580, Issue 1; equipment design spatial requirements per GR-63-CORE, Section 2; thermal heat dissipation per GR-063-CORE, Section 4, Criteria 77-79; acoustic noise per GR-063-CORE, Section 4, Criterion 128, and National Electric Code standards. Except where otherwise required by a Commission, BellSouth shall comply with the applicable FCC rules relating to denial of collocation based on Network Telephone Corporation's failure to comply with these requirements.
- 5.1.2 Network Telephone Corporation shall not use the Remote Collocation Space for marketing purposes nor shall it place any identifying signs or markings in the area surrounding the Remote Collocation Space or on the grounds of the Remote Site Location.
- 5.1.3 Network Telephone Corporation shall place a plaque or other identification affixed to Network Telephone Corporation's equipment to identify Network Telephone Corporation's equipment, including a list of emergency contacts with telephone numbers.
- 5.1.4 All Network Telephone Corporation equipment installation shall comply with BellSouth TR 73503-11, Section 8, "Grounding - Engineering Procedures". Metallic cable sheaths and metallic strength members of optical fiber cables as well as the metallic cable sheaths of all copper conductor cables shall be bonded to the designated grounding bus for the Remote Site Location. All copper conductor pairs, working and non-working, shall be equipped with a solid state protector unit (over-voltage protection only) which has been listed by a nationally recognized testing laboratory.
- 5.2 Entrance Facilities. Network Telephone Corporation may elect to place Network Telephone Corporation-owned or Network Telephone Corporation-leased entrance facilities into the Remote Collocation Space from Network Telephone Corporation's point of presence. BellSouth will designate the point of interconnection at the Remote Site Location housing the Remote Collocation Space, which is physically accessible by both Parties. Network Telephone Corporation will provide and place copper cable through conduit from the Remote Collocation Space to the Feeder Distribution Interface to the splice location of sufficient length for splicing by BellSouth. Network Telephone Corporation must contact BellSouth for instructions prior to placing the entrance facility cable. Network Telephone Corporation is responsible for maintenance of the entrance facilities.



- 5.2.1 Shared Use. Network Telephone Corporation may utilize spare capacity on an existing interconnector entrance facility for the purpose of providing an entrance facility to Network Telephone Corporation's collocation arrangement within the same BellSouth Remote Site Location.
- 5.3 Demarcation Point. BellSouth will designate the point(s) of demarcation between Network Telephone Corporation's equipment and/or network and BellSouth's network. Each Party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point. Network Telephone Corporation or its agent must perform all required maintenance to Network Telephone Corporation equipment/facilities on its side of the demarcation point, pursuant to **Section 5.4**, following.
- 5.4 Network Telephone Corporation's Equipment and Facilities. Network Telephone Corporation, or if required by this Attachment, Network Telephone Corporation's Certified Supplier, is solely responsible for the design, engineering, installation, testing, provisioning, performance, monitoring, maintenance and repair of the equipment and facilities used by Network Telephone Corporation.
- 5.5 BellSouth's Access to Remote Collocation Space. BellSouth retains the right to access the Remote Collocation Space for the purpose of making BellSouth equipment and Remote Site Location modifications.
- 5.6 Access. Pursuant to **Section 12**, Network Telephone Corporation shall have access to the Remote Collocation Space twenty-four (24) hours a day, seven (7) days a week. Network Telephone Corporation agrees to provide the name and social security number or date of birth or driver's license number of each employee, contractor, or agents of Network Telephone Corporation or Network Telephone Corporation's Guests provided with access keys or devices ("Access Keys") prior to the issuance of said Access Keys. Key acknowledgement forms must be signed by Network Telephone Corporation and returned to BellSouth Access Management within fifteen (15) calendar days of Network Telephone Corporation's receipt. Failure to return properly acknowledged forms will result in the holding of subsequent requests until acknowledgements are current. Access Keys shall not be duplicated under any circumstances. Network Telephone Corporation agrees to be responsible for all Access Keys and for the return of all said Access Keys in the possession of Network Telephone Corporation employees, contractors, Guests, or agents after termination of the employment relationship, contractual obligation with Network Telephone Corporation or upon the termination of this Attachment or the termination of occupancy of an individual Remote Site collocation arrangement.
- 5.6.1 Network Telephone Corporation must submit to BellSouth the completed Access Control Request Form for all employees or agents requiring access to the BellSouth Premises a minimum of thirty (30) calendar days prior to the date Network Telephone

Corporation desires access to the Collocation Space. In order to permit reasonable access during construction of the Collocation Space, Network Telephone Corporation may submit such a request at any time subsequent to BellSouth's receipt of the Bona Fide Firm Order. In the event Network Telephone Corporation desires access to the Collocation Space after submitting such a request but prior to access being approved, BellSouth shall permit Network Telephone Corporation to access the Collocation Space accompanied by a security escort at Network Telephone Corporation's expense. Network Telephone Corporation must request escorted access at least three (3) business days prior to the date such access is desired.

- 5.7 Lost or Stolen Access Keys. Network Telephone Corporation shall notify BellSouth in writing immediately in the case of lost or stolen Access Keys. Should it become necessary for BellSouth to re-key Remote Site Locations as a result of a lost Access Key(s) or for failure to return an Access Key(s), Network Telephone Corporation shall pay for all reasonable costs associated with the re-keying.
- 5.8 Interference or Impairment. Notwithstanding any other provisions of this Attachment, equipment and facilities placed in the Remote Collocation Space shall not significantly degrade, interfere with or impair service provided by BellSouth or by any other interconnector located in the Remote Site Location; shall not endanger or damage the facilities of BellSouth or of any other interconnector, the Remote Collocation Space, or the Remote Site Location; shall not compromise the privacy of any communications carried in, from, or through the Remote Site Location; and shall not create an unreasonable risk of injury or death to any individual or to the public. If BellSouth reasonably determines that any equipment or facilities of Network Telephone Corporation violates the provisions of this paragraph, BellSouth shall give written notice to Network Telephone Corporation, which notice shall direct Network Telephone Corporation to cure the violation within forty-eight (48) hours of Network Telephone Corporation's actual receipt of written notice or, at a minimum, to commence curative measures within 24 hours and to exercise reasonable diligence to complete such measures as soon as possible thereafter. After receipt of the notice, the Parties agree to consult immediately and, if necessary, to inspect the arrangement.
- 5.8.1 Except in the case of the deployment of an advanced service which significantly degrades the performance of other advanced services or traditional voice band services, if Network Telephone Corporation fails to take curative action within 48 hours or if the violation is of a character which poses an immediate and substantial threat of damage to property, injury or death to any person, or other interference/impairment of the services provided by BellSouth or any other interconnector, then and only in that event BellSouth may take such action as it deems appropriate to correct the violation, including without limitation the interruption of electrical power to Network Telephone Corporation's equipment. BellSouth will endeavor, but is not required, to provide notice to Network Telephone Corporation prior to taking such action and shall have no liability to Network Telephone

Corporation for any damages arising from such action, except to the extent that such action by BellSouth constitutes willful misconduct.

- 5.8.2 For purposes of this section, the term significantly degrade shall mean an action that noticeably impairs a service from a user's perspective. In the case of the deployment of an advanced service which significantly degrades the performance of other advanced services or traditional voice band services and Network Telephone Corporation fails to take curative action within 48 hours then BellSouth will establish before the relevant Commission that the technology deployment is causing the significant degradation. Any claims of network harm presented to Network Telephone Corporation or, if subsequently necessary, the relevant Commission must be supported with specific and verifiable information. Where BellSouth demonstrates that a deployed technology is significantly degrading the performance of other advanced services or traditional voice band services, Network Telephone Corporation shall discontinue deployment of that technology and migrate its customers to technologies that will not significantly degrade the performance of other such services. Where the only degraded service itself is a known disturber, and the newly deployed technology satisfies at least one of the criteria for a presumption that is acceptable for deployment under 47 C.F.R. 51.230, the degraded service shall not prevail against the newly-deployed technology.
- 5.9 Presence of Facilities. Facilities and equipment placed by Network Telephone Corporation in the Remote Collocation Space shall not become a part of the Remote Site Location, even if nailed, screwed or otherwise fastened to the Remote Collocation Space but shall retain its status as personality and may be removed by Network Telephone Corporation at any time. Any damage caused to the Remote Collocation Space by Network Telephone Corporation's employees, agents or representatives shall be promptly repaired by Network Telephone Corporation at its expense.
- 5.10 Alterations. In no case shall Network Telephone Corporation or any person acting on behalf of Network Telephone Corporation make any rearrangement, modification, improvement, addition, or other alteration which could affect in any way space, power, HVAC, and/or safety considerations to the Remote Collocation Space or the BellSouth Remote Site Location without the written consent of BellSouth, which consent shall not be unreasonably withheld. The cost of any specialized alterations shall be paid by Network Telephone Corporation. Any material rearrangement, modification, improvement, addition, or other alteration shall require an Application Fee.
- 5.11 Upkeep of Remote Collocation Space. Network Telephone Corporation shall be responsible for the general upkeep and cleaning of the Remote Collocation Space. Network Telephone Corporation shall be responsible for removing any Network Telephone Corporation debris from the Remote Collocation Space and from in and around the Remote Collocation Site on each visit.

**6. Space Notification**

- 6.1 Should any state or federal regulatory agency impose procedures or intervals applicable to Network Telephone Corporation and BellSouth that are different from procedures or intervals set forth in this section, whether now in effect or that become effective after execution of this Agreement, those procedures or intervals shall supersede the requirements set forth herein for that jurisdiction for all applications submitted for the first time after the effective date thereof
- 6.2 Application for Space. Network Telephone Corporation shall submit a Remote Site Collocation Application when Network Telephone Corporation or Network Telephone Corporation's Guest(s), as defined in **Section 3**, desires to request or modify the use of the Remote Collocation Space.
- 6.3 Initial Application. For Network Telephone Corporation or Network Telephone Corporation's Guest(s) equipment placement, Network Telephone Corporation shall submit to BellSouth an Application. The Application is Bona Fide when it is complete and accurate, meaning that all required fields on the Application are completed with the appropriate type of information. Prior to submitting the application, CLLI information can be obtained in the manner set forth in **Section 2**. An Application Fee will apply.
- 6.4 Subsequent Application In the event Network Telephone Corporation or Network Telephone Corporation's Guest(s) desires to modify the use of the Collocation Space after Bona Fide Firm Order, Network Telephone Corporation shall complete an Application detailing all information regarding the modification to the Collocation Space ("Subsequent Application"). BellSouth shall determine what modifications, if any, to the Premises are required to accommodate the change requested by Network Telephone Corporation in the Application. Such necessary modifications to the Premises may include, but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, equipment additions, etc.
- 6.4.1 Subsequent Application Fee. The application fee paid by Network Telephone Corporation for its request to modify the use of the Collocation Space shall be dependent upon the level of assessment needed for the modification requested. Where the Subsequent Application does not require assessment for provisioning or construction work by BellSouth, no Subsequent Application fee will be required. The fee for a Subsequent Application where the modification requested has limited effect (e.g., requires limited assessment and no capital expenditure by BellSouth) shall be the Subsequent Application Fee as set forth in Exhibit A. If the modification requires capital expenditure assessment, a full Application Fee shall apply. The Subsequent Application is Bona Fide when it is complete and accurate, meaning that all required fields on the Application are completed with the appropriate type of information.

- 6.5 Availability of Space. Upon submission of an Application, BellSouth will permit Network Telephone Corporation to physically collocate, pursuant to the terms of this Attachment, at any BellSouth Remote Site Location, unless BellSouth has determined that there is no space available due to space limitations or that Remote Site Collocation is not practical for technical reasons. In the event space is not immediately available at a Remote Site Location, BellSouth reserves the right to make additional space available, in which case the conditions in **Section 7** shall apply, or BellSouth may elect to deny space in accordance with this section in which case virtual or adjacent collocation options may be available. If the amount of space requested is not available, BellSouth will notify Network Telephone Corporation of the amount that is available.
- 6.5.1 Availability Notification. Unless otherwise specified, BellSouth will respond to an application within ten (10) calendar days (In Mississippi, ten (10) business days) as to whether space is available or not available within a BellSouth Remote Site Location. With the exception of Georgia, this interval excludes National Holidays. If the amount of space requested is not available, BellSouth will notify Network Telephone Corporation of the amount of space that is available and no Application Fee shall apply. When BellSouth's response includes an amount of space less than that requested by Network Telephone Corporation, Network Telephone Corporation must resubmit its Application to reflect the actual space available.
- 6.5.2 BellSouth will respond to a Florida Application within fifteen (15) calendar days as to whether space is available or not available within a BellSouth Remote Site Location. BellSouth will also respond as to whether the Application is Bona Fide and if it is not Bona Fide the items necessary to cause the Application to become Bona Fide. If a lesser amount of space than requested is available, BellSouth will provide an Application Response for the amount of space that is available and an Application Fee will be assessed. When BellSouth's Application Response includes an amount of space less than that requested by Network Telephone Corporation, Network Telephone Corporation must amend its Application to reflect the actual space available prior to submitting Bona Fide Firm Order.
- 6.5.3 BellSouth will respond to a Louisiana Application within ten (10) calendar days for space availability for one (1) to ten (10) Applications; fifteen (15) calendar days for eleven (11) to twenty (20) Applications; and for more than twenty (20) Applications, it is increased by five (5) calendar days for every five additional Applications received within five (5) business days. If the amount of space requested is not available, BellSouth will notify Network Telephone Corporation of the amount of space that is available and no Application Fee will apply. When BellSouth's response includes an amount of space less than that requested by Network Telephone Corporation, Network Telephone Corporation must resubmit its Application to reflect the actual space available. BellSouth will also respond as to whether the Application is Bona

Fide and if it is not Bona Fide the items necessary to cause the Application to become Bona Fide.

- 6.6 Denial of Application. If BellSouth notifies Network Telephone Corporation that no space is available (“Denial of Application”), BellSouth will not assess an Application Fee. After notifying Network Telephone Corporation that BellSouth has no available space in the requested Remote Site Location, BellSouth will allow Network Telephone Corporation, upon request, to tour the Remote Site Location within ten (10) calendar days of such Denial of Application. With the exception of Georgia, this interval excludes national holidays. In order to schedule said tour within ten (10) calendar days, the request for a tour of the Remote Site Location must be received by BellSouth within five (5) calendar days of the Denial of Application. In Mississippi the above intervals shall be in business days.
- 6.7 Filing of Petition for Waiver. Upon Denial of Application BellSouth will timely file a petition with the Commission pursuant to 47 U.S.C. § 251(c)(6). BellSouth shall provide to the Commission any information requested by that Commission. Such information shall include which space, if any, BellSouth or any of BellSouth’s affiliates have reserved for future use and a detailed description of the specific future uses for which the space has been reserved. Subject to an appropriate nondisclosure agreement or provision, BellSouth shall permit Network Telephone Corporation to inspect any plans or diagrams that BellSouth provides to the Commission.
- 6.8 Waiting List. On a first-come, first-served basis governed by the date of receipt of an Application or Letter of Intent, BellSouth will maintain a waiting list of requesting carriers who have either received a Denial of Application or, where it is publicly known that the Premises is out of space, have submitted a Letter of Intent to collocate. BellSouth will notify the telecommunications carriers on the waiting list that can be accommodated by the amount of space that becomes available according to the position of the telecommunications carriers on said waiting list
- 6.8.1 In Florida, on a first-come, first-served basis governed by the date of receipt of an Application or Letter of Intent, BellSouth will maintain a waiting list of requesting carriers who have either received a Denial of Application or, where it is publicly known that the Remote Site Location is out of space, have submitted a Letter of Intent to collocate. Sixty (60) days prior to space becoming available, if known, BellSouth will notify the Florida PSC and the telecommunications carriers on the waiting list by mail when space becomes available according to the position of telecommunications carrier on said waiting list. If not known sixty (60) days in advance, BellSouth shall notify the Florida PSC and the telecommunications carriers on the waiting list within two days of the determination that space is available. A CLEC that, upon denial of physical collocation, requests virtual collocation shall be automatically placed on the waiting list.

- 6.8.2 When space becomes available, Network Telephone Corporation must submit an updated, complete, and correct Application to BellSouth within 30 calendar days (in Mississippi, 30 business days) of such notification. Network Telephone Corporation may accept an amount of space less than its original request by submitting an Application as set forth above, and upon request, may maintain its position on the waiting list for the remaining space that was initially requested. If Network Telephone Corporation does not submit such an Application or notify BellSouth in writing as described above, BellSouth will offer such space to the next CLEC on the waiting list and remove Network Telephone Corporation from the waiting list. Upon request, BellSouth will advise Network Telephone Corporation as to its position on the list.
- 6.9 Public Notification. BellSouth will maintain on its Interconnection Services website a notification document that will indicate all Remote Site Locations that are without available space. BellSouth shall update such document within ten (10) calendar days (in Mississippi, 10 business days) of the Denial of Application date. This interval excludes national holidays. BellSouth will also post a document on its Interconnection Services website that contains a general notice where space has become available in a Remote Site Location previously on the space exhaust list.
- 6.10 Application Response.
- 6.10.1 In Alabama, Kentucky, North Carolina, and Tennessee, when space has been determined to be available, BellSouth will provide a written response ("Application Response") within twenty-three (23) business days of the receipt of a Bona Fide Application, which will include, at a minimum, the configuration of the space, the Cable Installation Fee, Cable Records Fee, and the space preparation fees, as described in Section 8.
- 6.10.2 Except as otherwise provided, for all States that have ordered provisioning intervals but not application response intervals, BellSouth will provide a written response ("Application Response") within thirty (30) calendar days of receipt of a Bona Fide Application. The Application Response will include, at a minimum, the estimated provisioning interval, any additional engineering charges, if applicable, and any other additional information that may extend the ordinary interval to extraordinary interval status, together with sufficient information to explain such extension.
- 6.10.2.1 When multiple applications are submitted in a state within a fifteen (15) calendar day window, BellSouth will respond to the Bona Fide Applications as soon as possible, but no later than the following: within thirty (30) calendar days for Bona Fide Applications 1-5; within thirty-six (36) calendar days for Bona Fide Applications 6-10; within forty-two (42) calendar days for Bona Fide Applications 11-15. Response intervals for multiple Bona Fide Applications submitted within the same timeframe for the same state in excess of 15 must be negotiated. All negotiations shall consider the total volume from all requests from telecommunications companies for collocation.

- 6.10.3 In Florida, when space has been determined to be available or when a lesser amount of space than that requested is available, then with respect to the space available, BellSouth will provide a written response ("Application Response") including sufficient information to enable Network Telephone Corporation to place a Firm Order. When Network Telephone Corporation submits ten (10) or more Applications within ten (10) calendar days, the initial fifteen (15) day response period will increase by ten (10) days for every additional ten (10) Applications or fraction thereof.
- 6.10.4 In Georgia, when space has been determined to be available, BellSouth will provide a written response ("Application Response") within thirty (30) calendar days of receipt of a Bona Fide Application. The Application Response will include, at a minimum, the estimated provisioning interval, any additional engineering charges, if applicable, and any other additional information that may extend the ordinary interval to extraordinary interval status, together with sufficient information to explain such extension.
- 6.10.5 In Louisiana, BellSouth will respond with a full Application Response within thirty (30) calendar days for one (1) to ten (10) Applications; thirty (35) calendar days for eleven (11) to twenty (20) Applications; and for requests of more than twenty (20) Applications, it is increased by five (5) calendar days for every five Applications received within five (5) business days. The Application Response will include, at a minimum, the estimated provisioning interval, any additional engineering charges, if applicable, and any other additional information that may extend the ordinary interval to extraordinary interval status, together with sufficient information to explain such extension.
- 6.11 Application Modifications.
- 6.11.1 If a modification or revision is made to any information in the Bona Fide Application prior to Bona Fide Firm Order, with the exception of modifications to Customer Information, Contact Information or Billing Contact Information, either at the request of Network Telephone Corporation or necessitated by technical considerations, said Application shall be considered a new Application and shall be handled as a new Application with respect to response and provisioning intervals and BellSouth may charge Network Telephone Corporation an application fee. Where the Application Modification does not require assessment for provisioning or construction work by BellSouth, no application fee will be required. The fee for an Application Modification where the modification requested has limited effect (e.g., requires limited assessment and no capital expenditure by BellSouth) shall be the Subsequent Application Fee as set forth in Exhibit A. Major changes such as requesting additional space or adding equipment may require Network Telephone Corporation to submit the Application with an Application Fee.
- 6.12 Bona Fide Firm Order.



- 6.12.1 In Alabama, Kentucky, North Carolina, and Tennessee, Network Telephone Corporation shall indicate its intent to proceed with equipment installation in a BellSouth Premise by submitting a Physical Expanded Interconnection Firm Order document ("Firm Order") to BellSouth. A Firm Order shall be considered Bona Fide when Network Telephone Corporation has completed the Application/Inquiry process described in Section 6.2, preceding, and has submitted the Firm Order document indicating acceptance of the Application Response provided by BellSouth. The Bona Fide Firm Order must be received by BellSouth no later than five (5) business days after BellSouth's Application Response to Network Telephone Corporation's Bona Fide Application.
- 6.12.2 Except as otherwise provided, in all States that have ordered provisioning intervals but not addressed Firm Order intervals, the following shall apply. Network Telephone Corporation shall indicate its intent to proceed with equipment installation in a BellSouth Remote Site Location by submitting a Physical Expanded Interconnection Firm Order document ("Firm Order") to BellSouth. A Firm Order shall be considered Bona Fide when Network Telephone Corporation has completed the Application/Inquiry process described in this **Section 6**, preceding and has submitted the Firm Order document indicating acceptance of the Application Response provided by BellSouth. The Bona Fide Firm Order must be received by BellSouth no later than thirty (30) calendar days (in Mississippi 30 business days) after BellSouth's Application Response to Network Telephone Corporation's Bona Fide Application or the Application will expire.
- 6.12.3 In Mississippi, Network Telephone Corporation shall indicate its intent to proceed with equipment installation in a BellSouth Remote Terminal Location by submitting a Physical Expanded Interconnection Firm Order document ("Firm Order") to BellSouth. A Firm Order shall be considered Bona Fide when Network Telephone Corporation has completed the Application/Inquiry process described in **Section 6**, preceding and has submitted the Firm Order document indicating acceptance of the Application Response provided by BellSouth. The Bona Fide Firm Order must be received by BellSouth no later than thirty (30) business days after BellSouth's Application Response to Network Telephone Corporation's Bona Fide Application or the Application will expire.
- 6.12.4 BellSouth will establish a firm order date based upon the date BellSouth is in receipt of a Bona Fide Firm Order. BellSouth will acknowledge the receipt of Network Telephone Corporation's Bona Fide Firm Order within seven (7) calendar days of receipt indicating that the Bona Fide Firm Order has been received. A BellSouth response to a Bona Fide Firm Order will include a Firm Order Confirmation containing the firm order date. No revisions will be made to a Bona Fide Firm Order.
- 6.13 BellSouth will permit one accompanied site visit to Network Telephone Corporation's designated Remote Collocation Space after receipt of the Bona Fide Firm Order without charge to Network Telephone Corporation.

## **7. Construction and Provisioning**

### **7.1 Construction and Provisioning Intervals.**

- 7.1.1 In Alabama (Caged Only), Kentucky, North Carolina, and Tennessee, BellSouth will complete construction for collocation arrangements within seventy-six (76) business days from receipt of an Application or as agreed to by the Parties. Under extraordinary conditions, BellSouth will complete construction for collocation arrangements within ninety-one (91) business days. Examples of extraordinary conditions include, but are not limited to, extended license or permitting intervals; major BellSouth equipment rearrangement or addition; power plant addition or upgrade; major mechanical addition or upgrade; major upgrade for ADA compliance; environmental hazard or hazardous materials abatement; and arrangements for which equipment shipping intervals are extraordinary in length. In the event Network Telephone Corporation submits a forecast as described in the following section three (3) months or more prior to the application date, the above intervals shall apply. In the event Network Telephone Corporation submits such a forecast between two (2) months and three (3) months prior to the application date, the above intervals may be extended by one (1) additional month. In the event Network Telephone Corporation submits such a forecast less than two (2) months prior to the application date, the above intervals may be extended by sixty (60) calendar days. BellSouth will attempt to meet standard intervals for unforecasted requests and any interval adjustments will be discussed with Network Telephone Corporation at the time the application is received. Raw space, which is space lacking the necessary infrastructure to provide collocation space including but not limited to HVAC, Power, etc.), conversion time frames fall outside the normal intervals and are negotiated on an individual case basis. Additionally, installations to existing collocation arrangements for line sharing or line splitting, which include adding cable, adding cable and splitter, and adding a splitter, will be forty five (45) business days from receipt of an Application.
- 7.1.1.1 To be considered a timely and accurate forecast, Network Telephone Corporation must submit to BellSouth the CLEC Forecast Form, as set forth in Exhibit D attached hereto, containing the following information: Central Office/Serving Wire Center CLLI, Remote Site CLLI, number of bays, number of DS0, DS1, DS3 terminations, equipment power requirements (power drain) and planned application date.
- 7.1.2 In Alabama, BellSouth will complete construction for cageless collocation arrangements under ordinary conditions as soon as possible and within a maximum of sixty (60) calendar days from receipt of a Bona Fide Firm Order and ninety (90) calendar days for extraordinary conditions or as agreed to by the Parties. Ordinary conditions are defined as space available with only minor changes to support systems required, such as but not limited to, HVAC, cabling and the power plant(s). Extraordinary conditions are defined to include but are not limited to major BellSouth equipment rearrangement or addition; power plant addition or upgrade; major mechanical addition or upgrade; major upgrade for ADA compliance; environmental

hazard or hazardous materials abatement; and arrangements for which equipment shipping intervals are extraordinary in length. The Parties may mutually agree to renegotiate an alternative provisioning interval or BellSouth may seek a waiver from this interval from the Commission.

- 7.1.3 In Florida, BellSouth will complete construction for collocation arrangements as soon as possible and within a maximum of ninety (90) calendar days from receipt of a Bona Fide Firm Order or as agreed to by the Parties. For changes to collocation space after initial space completion ("Augmentation"), BellSouth will complete construction for collocation arrangements as soon as possible and within a maximum of forty-five (45) calendar days from receipt of a Bona Fide Firm Order or as agreed to by the Parties. If BellSouth does not believe that construction will be completed within the relevant time frame and BellSouth and Network Telephone Corporation cannot agree upon a completion date, within 45 calendar days of receipt of the Bona Fide Firm Order for an initial request, and within 30 calendar days for Augmentations, BellSouth may seek an extension from the Florida PSC.
- 7.1.4 In Georgia, BellSouth will complete construction for caged collocation arrangements under ordinary conditions as soon as possible and within a maximum of ninety (90) calendar days from receipt of a Bona Fide Firm Order or as agreed to by the Parties. BellSouth will complete construction for cageless collocation arrangements under ordinary conditions as soon as possible and within a maximum of 60 calendar days from receipt of a Bona Fide Firm Order and 90 calendar days for extraordinary conditions or as agreed to by the Parties. Ordinary conditions are defined as space available with only minor changes to support systems required, such as but not limited to, HVAC, cabling and the power plant(s). Extraordinary conditions are defined to include but are not limited to major BellSouth equipment rearrangement or addition; power plant addition or upgrade; major mechanical addition or upgrade; major upgrade for ADA compliance; environmental hazard or hazardous materials abatement; and arrangements for which equipment shipping intervals are extraordinary in length. The Parties may mutually agree to renegotiate an alternative provisioning interval or BellSouth may seek a waiver from this interval from the Commission.
- 7.1.5 In Louisiana, BellSouth will complete construction for collocation arrangements under ordinary conditions as soon as possible and within a maximum of 120 calendar days from receipt of a Bona Fide Firm Order for an initial request, and within 60 calendar days for an Augmentation, or as agreed to by the Parties. Ordinary conditions are defined as space available with only minor changes to support systems required, such as but not limited to, HVAC, cabling and the power plant(s). BellSouth will complete construction of all other Collocation Space ("extraordinary conditions") within 120 calendar days of the receipt of a Bona Fide Firm Order. Examples of extraordinary conditions include but are not limited to, extended license or permitting intervals; major BellSouth equipment rearrangement or addition; power plant addition or upgrade; major mechanical addition or upgrade; major upgrade for ADA compliance; environmental hazard or hazardous materials abatement; and arrangements for which

equipment shipping intervals are extraordinary in length. The Parties may mutually agree to renegotiate an alternative provisioning interval or BellSouth may seek a waiver from this interval from the Commission.

- 7.1.6 In Mississippi, excluding the time interval required to secure the appropriate government licenses and permits, BellSouth will complete construction for collocation arrangements under ordinary conditions as soon as possible and within a maximum of 120 calendar days from receipt of a Bona Fide Firm Order or as agreed to by the Parties. Ordinary conditions are defined as space available with only minor changes to support systems required, such as but not limited to, HVAC, cabling and the power plant(s). Excluding the time interval required to secure the appropriate government licenses and permits, BellSouth will complete construction of all other Collocation Space ("extraordinary conditions") within 180 calendar days of the receipt of a Bona Fide Firm Order. Examples of extraordinary conditions include but are not limited to, extended license or permitting intervals; major BellSouth equipment rearrangement or addition; power plant addition or upgrade; major mechanical addition or upgrade; major upgrade for ADA compliance; environmental hazard or hazardous materials abatement; and arrangements for which equipment shipping intervals are extraordinary in length. The Parties may mutually agree to renegotiate an alternative provisioning interval or BellSouth may seek a waiver from this interval from the Commission.
- 7.1.7 In South Carolina, BellSouth will complete the construction and provisioning activities for collocation arrangements as soon as possible, but no later than 90 calendar days from receipt of a bona fide firm order. The Parties may mutually agree to renegotiate an alternative provisioning interval or BellSouth may seek a waiver from this interval from the Commission.
- 7.2 In the event BellSouth does not have space immediately available at a Remote Site Location, BellSouth may elect to make additional space available by, for example but not limited to, rearranging BellSouth facilities or constructing additional capacity. In such cases, the above intervals shall not apply and BellSouth will provision the Remote Collocation Space in a nondiscriminatory manner and at parity with BellSouth and will provide Network Telephone Corporation with the estimated completion date in its Response.
- 7.3 Permits. Each Party or its agents will diligently pursue filing for the permits required for the scope of work to be performed by that Party or its agents within ten (10) calendar days of the completion of finalized construction designs and specifications.
- 7.4 Acceptance Walk Through. Network Telephone Corporation will schedule and complete an acceptance walk through of each Collocation Space with BellSouth within fifteen (15) days of BellSouth's notifying Network Telephone Corporation that the collocation space is ready for occupancy. BellSouth will correct any deviations to Network Telephone Corporation's original or jointly amended requirements within

seven (7) calendar days after the walk through, unless the Parties jointly agree upon a different time frame.

- 7.5 Use of BellSouth Certified Supplier. Network Telephone Corporation shall select a supplier that has been approved by BellSouth to perform all engineering and installation work required in the Remote Collocation Space per TR 73503 specifications ("Certified Supplier"). BellSouth shall provide Network Telephone Corporation with a list of Certified Suppliers upon request. The Certified Supplier(s) shall be responsible for installing Network Telephone Corporation's equipment and components, extending power cabling to the BellSouth power distribution frame, performing operational tests after installation is complete, and notifying BellSouth's Outside Plant engineers and Network Telephone Corporation upon successful completion of installation. The Certified Supplier shall bill Network Telephone Corporation directly for all work performed for Network Telephone Corporation pursuant to this Attachment and BellSouth shall have no liability for nor responsibility to pay such charges imposed by the Certified Supplier. BellSouth shall consider certifying Network Telephone Corporation or any supplier proposed by Network Telephone Corporation. All work performed by or for Network Telephone Corporation shall conform to generally accepted industry guidelines and standards.
- 7.6 Alarm and Monitoring. BellSouth may place alarms in the Remote Site Location for the protection of BellSouth equipment and facilities. Network Telephone Corporation shall be responsible for placement, monitoring and removal of alarms used to service Network Telephone Corporation's Remote Collocation Space and for ordering the necessary services therefor. Both Parties shall use best efforts to notify the other of any verified hazardous conditions known to that Party.
- 7.7 Virtual Remote Site Collocation Relocation. BellSouth offers Virtual Collocation pursuant to the terms and conditions set forth in its F.C.C. Tariff No. 1 for Remote Site Collocation locations. The rates shall be the same as provided in this Exhibit A of this agreement. Network Telephone Corporation may place within its Virtual Collocation arrangements the telecommunications equipment set forth in **Section 5**. In the event physical Remote Collocation Space was previously denied at a Remote Site Location due to technical reasons or space limitations, and that physical Remote Collocation Space has subsequently become available, Network Telephone Corporation may relocate its virtual Remote Site collocation arrangements to physical Remote Site collocation arrangements and pay the appropriate non-recurring fees for physical Remote Site collocation and for the rearrangement or reconfiguration of services terminated in the virtual Remote Site collocation arrangement, as outlined in the appropriate BellSouth tariffs. In the event that BellSouth knows when additional space for physical Remote Site collocation may become available at the location requested by Network Telephone Corporation, such information will be provided to Network Telephone Corporation in BellSouth's written denial of physical Remote Site collocation. To the extent that (i) physical Remote Collocation Space becomes available to Network Telephone Corporation within 180 calendar days of BellSouth's

written denial of Network Telephone Corporation's request for physical collocation, and (ii) Network Telephone Corporation was not informed in the written denial that physical Remote Collocation Space would become available within such 180 calendar days, then Network Telephone Corporation may relocate its virtual Remote Site collocation arrangement to a physical Remote Site collocation arrangement and will receive a credit for any nonrecurring charges previously paid for such virtual Remote Site collocation. Network Telephone Corporation must arrange with a BellSouth Certified Supplier for the relocation of equipment from its virtual Remote Collocation Space to its physical Remote Collocation Space and will bear the cost of such relocation.

- 7.8 Cancellation. If, at anytime prior to space acceptance, Network Telephone Corporation cancels its order for the Remote Collocation Space(s), Network Telephone Corporation will reimburse BellSouth for the applicable non recurring rate for any and all work processes for which work has begun.
- 7.9 Licenses. Network Telephone Corporation, at its own expense, will be solely responsible for obtaining from governmental authorities, and any other appropriate agency, entity, or person, all rights, privileges, and licenses necessary or required to operate as a provider of telecommunications services to the public or to occupy the Remote Collocation Space.
- 7.10 Environmental Hazard Guidelines. The Parties agree to utilize and adhere to the Environmental Hazard Guidelines identified as Exhibit B attached hereto.

## **8. Rates and Charges**

- 8.1 Application Fee. BellSouth will assess an Application Fee on a service order which shall be issued at the time BellSouth responds that space is available. Payment of the Application Fee will be due as dictated by Network Telephone Corporation's current billing cycle and is non-refundable.
- 8.2 Recurring Fees. Recurring charges begin on the date that Network Telephone Corporation executes the written document accepting the Remote Collocation Space pursuant to **Section 7**, or on the date Network Telephone Corporation first occupies the Remote Collocation Space, whichever is sooner. If Network Telephone Corporation fails to schedule and complete a walkthrough pursuant to **Section 7** within fifteen (15) days after BellSouth releases the space for occupancy, then BellSouth shall begin billing Network Telephone Corporation for recurring charges as of the sixteenth (16) day after BellSouth releases the Remote Collocation Space. Other charges shall be billed upon request for the services. All charges shall be due as dictated by Network Telephone Corporation's current billing cycle.

- 8.3 Rack/Bay Space. The rack/bay space charge includes reasonable charges for air conditioning, ventilation and other allocated expenses associated with maintenance of the Remote Site Location, and includes amperage necessary to power Network Telephone Corporation's equipment. Network Telephone Corporation shall pay rack/bay space charges based upon the number of racks/bays requested. BellSouth will assign Remote Collocation Space in conventional remote site rack/bay lineups where feasible
- 8.4 Power. BellSouth shall make available -48 Volt (-48V) DC power for Network Telephone Corporation's Remote Collocation Space at a BellSouth Power Board (Fuse and Alarm Panel) or BellSouth Battery Distribution Fuse Bay ("BDFB") at Network Telephone Corporation's option within the Remote Site Location. The charge for power shall be assessed as part of the recurring charge for rack/bay space. If the power requirements for Network Telephone Corporation's equipment exceeds the capacity for the rack/bay, then such power requirements shall be assessed on a recurring per amp basis for the individual case.
- 8.4.1 Charges for AC power will be assessed per breaker ampere per month. Rates include the provision of commercial and standby AC power, where available. When obtaining power from a BellSouth service panel, protection devices and power cables must be engineered (sized), and installed by Network Telephone Corporation's BellSouth Certified Supplier except that BellSouth shall engineer and install protection devices and power cables for Adjacent Collocation. Network Telephone Corporation's BellSouth Certified Supplier must also provide a copy of the engineering power specification prior to the Commencement Date. AC power voltage and phase ratings shall be determined on a per location basis. At Network Telephone Corporation's option, Network Telephone Corporation may arrange for AC power in an Adjacent Collocation arrangement from a retail provider of electrical power.
- 8.5 Security Escort. A security escort will be required whenever Network Telephone Corporation or its approved agent desires access to the Remote Site Location after the one accompanied site visit allowed prior to completing BellSouth's Security Training requirements. The parties will negotiate appropriate security escort rates which will be assessed on a one half (1/2) hour increment basis.
- 8.6 Rate "True-Up". The Parties agree that the prices reflected as interim herein shall be "trued-up" (up or down) based on final prices either determined by further agreement or by an effective order, in a proceeding involving BellSouth before the regulatory authority for the state in which the services are being performed or any other body having jurisdiction over this Agreement (hereinafter "Commission"). Under the "true-up" process, the interim price for each service shall be multiplied by the volume of that service purchased to arrive at the total interim amount paid for that service ("Total Interim Price"). The final price for that service shall be multiplied by the volume purchased to arrive at the total final amount due ("Total Final Price"). The Total Interim Price shall be compared with the Total Final Price. If the Total Final Price is

more than the Total Interim Price, Network Telephone Corporation shall pay the difference to BellSouth. If the Total Final Price is less than the Total Interim Price, BellSouth shall pay the difference to Network Telephone Corporation. Each Party shall keep its own records upon which a "true-up" can be based and any final payment from one Party to the other shall be in an amount agreed upon by the Parties based on such records. In the event of any disagreement as between the records or the Parties regarding the amount of such "true-up," the Parties agree that the Commission shall be called upon to resolve such differences.

- 8.7 Other. If no rate is identified in the contract, the rate for the specific service or function will be negotiated by the Parties upon request by either Party. Payment of all other charges under this Attachment shall be due as dictated by Network Telephone Corporation's current billing cycle. Network Telephone Corporation will pay a late payment charge of the lesser of one and one half percent or the legal interest rate assessed monthly on any balance which remains unpaid after the payment due date..

## **9. Insurance**

- 9.1 Maintain Insurance. Network Telephone Corporation shall, at its sole cost and expense, procure, maintain, and keep in force insurance as specified in this **Section 9** and underwritten by insurance companies licensed to do business in the states applicable under this Attachment and having a Best's Insurance Rating of A-.
- 9.2 Coverage. Network Telephone Corporation shall maintain the following specific coverage:
- 9.2.1 Commercial General Liability coverage in the amount of ten million dollars (\$10,000,000.00) or a combination of Commercial General Liability and Excess/Umbrella coverage totaling not less than ten million dollars (\$10,000,000.00). BellSouth shall be named as an Additional Insured on the Commercial General Liability policy as specified herein.
- 9.2.2 Statutory Workers Compensation coverage and Employers Liability coverage in the amount of one hundred thousand dollars (\$100,000.00) each accident, one hundred thousand dollars (\$100,000.00) each employee by disease, and five hundred thousand dollars (\$500,000.00) policy limit by disease.
- 9.2.3 All Risk Property coverage on a full replacement cost basis insuring all of Network Telephone Corporation's real and personal property situated on or within BellSouth's Remote Site Location.
- 9.2.4 Network Telephone Corporation may elect to purchase business interruption and contingent business interruption insurance, having been advised that BellSouth assumes no liability for loss of profit or revenues should an interruption of service occur.



- 9.3 Limits. The limits set forth in **Section 9.2** above may be increased by BellSouth from time to time during the term of this Attachment upon thirty (30) days notice to Network Telephone Corporation to at least such minimum limits as shall then be customary with respect to comparable occupancy of BellSouth structures.
- 9.4 All policies purchased by Network Telephone Corporation shall be deemed to be primary. All policies purchased by Network Telephone Corporation shall be deemed to be primary and not contributing to or in excess of any similar coverage purchased by BellSouth. All insurance must be in effect on or before the date equipment is delivered to BellSouth's Remote Site Location and shall remain in effect for the term of this Attachment or until all Network Telephone Corporation's property has been removed from BellSouth's Remote Site Location, whichever period is longer. If Network Telephone Corporation fails to maintain required coverage, BellSouth may pay the premiums thereon and seek reimbursement of same from Network Telephone Corporation.
- 9.5 Submit certificates of insurance. Network Telephone Corporation shall submit certificates of insurance reflecting the coverage required pursuant to this Section a minimum of ten (10) business days prior to the commencement of any work in the Remote Collocation Space. Failure to meet this interval may result in construction and equipment installation delays. Network Telephone Corporation shall arrange for BellSouth to receive thirty (30) business days' advance notice of cancellation from Network Telephone Corporation's insurance company. Network Telephone Corporation shall forward a certificate of insurance and notice of cancellation/non-renewal to BellSouth at the following address:
- BellSouth Telecommunications, Inc.  
Attn.: Risk Management Coordinator  
675 W. Peachtree Street  
Rm. 17H53  
Atlanta, Georgia 30375
- 9.6 Conformance to recommendations made by BellSouth's fire insurance company. Network Telephone Corporation must conform to recommendations made by BellSouth's fire insurance company to the extent BellSouth has agreed to, or shall hereafter agree to, such recommendations.
- 9.7 Self-Insurance. If Network Telephone Corporation's net worth exceeds five hundred million dollars (\$500,000,000), Network Telephone Corporation may elect to request self-insurance status in lieu of obtaining any of the insurance required in **Sections 9.2.1** and **9.2.3**. Network Telephone Corporation shall provide audited financial statements to BellSouth thirty (30) days prior to the commencement of any work in the Remote Collocation Space. BellSouth shall then review such audited financial statements and respond in writing to Network Telephone Corporation in the event that self-insurance status is not granted to Network Telephone Corporation. If BellSouth approves

Network Telephone Corporation for self-insurance, Network Telephone Corporation shall annually furnish to BellSouth, and keep current, evidence of such net worth that is attested to by one of Network Telephone Corporation's corporate officers. The ability to self-insure shall continue so long as Network Telephone Corporation meets all of the requirements of this Section. If Network Telephone Corporation subsequently no longer satisfies this Section, Network Telephone Corporation is required to purchase insurance as indicated by **Sections 9.2.1 and 9.2.3.**

9.8 Net worth requirements. The net worth requirements set forth in **Section 9.7** may be increased by BellSouth from time to time during the term of this Attachment upon thirty (30) days' notice to Network Telephone Corporation to at least such minimum limits as shall then be customary with respect to comparable occupancy of BellSouth structures.

9.9 Failure to comply. Failure to comply with the provisions of this Section will be deemed a material breach of this Attachment.

## **10. Mechanics Liens**

10.1 Mechanics Lien or other Liens. If any mechanics lien or other liens shall be filed against property of either Party (BellSouth or Network Telephone Corporation), or any improvement thereon by reason of or arising out of any labor or materials furnished or alleged to have been furnished or to be furnished to or for the other Party or by reason of any changes, or additions to said property made at the request or under the direction of the other Party, the other Party directing or requesting those changes shall, within thirty (30) business days after receipt of written notice from the Party against whose property said lien has been filed, either pay such lien or cause the same to be bonded off the affected property in the manner provided by law. The Party causing said lien to be placed against the property of the other shall also defend, at its sole cost and expense, on behalf of the other, any action, suit or proceeding which may be brought for the enforcement of such liens and shall pay any damage and discharge any judgment entered thereon.

## **11. Inspections**

11.1 BellSouth may conduct inspection. BellSouth may conduct an inspection of Network Telephone Corporation's equipment and facilities in the Remote Collocation Space(s) prior to the activation of facilities between Network Telephone Corporation's equipment and equipment of BellSouth. BellSouth may conduct an inspection if Network Telephone Corporation adds equipment and may otherwise conduct routine inspections at reasonable intervals mutually agreed upon by the Parties. BellSouth shall provide Network Telephone Corporation with a minimum of forty-eight (48) hours or two (2) business days, whichever is greater, advance notice of all such inspections. All costs of such inspection shall be borne by BellSouth.

**12. Security and Safety Requirements**

- 12.1 Network Telephone Corporation will be required, at its own expense, to conduct a statewide investigation of criminal history records for each Network Telephone Corporation employee being considered for work on the BellSouth Premises, for the states/counties where the Network Telephone Corporation employee has worked and lived for the past five years. Where state law does not permit statewide collection or reporting, an investigation of the applicable counties is acceptable. Network Telephone Corporation shall not be required to perform this investigation if an affiliated company of Network Telephone Corporation has performed an investigation of the Network Telephone Corporation employee seeking access, if such investigation meets the criteria set forth above. This requirement will not apply if Network Telephone Corporation has performed a pre-employment statewide investigation of criminal history records of the Network Telephone Corporation employee for the states/counties where the Network Telephone Corporation employee has worked and lived for the past five years or, where state law does not permit a statewide investigation, an investigation of the applicable counties.
- 12.2 Network Telephone Corporation shall provide its employees and agents with picture identification which must be worn and visible at all times while in the Collocation Space or other areas in or around the Premises. The photo Identification card shall bear, at a minimum, the employee's name and photo, and the Network Telephone Corporation name. BellSouth reserves the right to remove from its premises any employee of Network Telephone Corporation not possessing identification issued by Network Telephone Corporation or who have violated any of BellSouth's policies as outlined in the CLEC Security Training documents. Network Telephone Corporation shall hold BellSouth harmless for any damages resulting from such removal of its personnel from BellSouth premises. Network Telephone Corporation shall be solely responsible for ensuring that any Guest of Network Telephone Corporation is in compliance with all subsections of this **Section 12**.
- 12.3 Network Telephone Corporation will be required to administer to their personnel assigned to the BellSouth Premises security training either provided by BellSouth, or meeting criteria defined by BellSouth.
- 12.4 Network Telephone Corporation shall not assign to the BellSouth Premises any personnel with records of felony criminal convictions. Network Telephone Corporation shall not assign to the BellSouth Premises any personnel with records of misdemeanor convictions, except for misdemeanor traffic violations, without advising BellSouth of the nature and gravity of the offense(s). BellSouth reserves the right to refuse access to any Network Telephone Corporation personnel who have been identified to have misdemeanor criminal convictions. Notwithstanding the foregoing, in the event that Network Telephone Corporation chooses not to advise BellSouth of the nature and gravity of any misdemeanor conviction, Network Telephone Corporation may, in the alternative, certify to BellSouth that it shall not assign to the

BellSouth Premises any personnel with records of misdemeanor convictions (other than misdemeanor traffic violations).

- 12.4.1 Network Telephone Corporation shall not knowingly assign to the BellSouth Premises any individual who was a former employee of BellSouth and whose employment with BellSouth was terminated for a criminal offense whether or not BellSouth sought prosecution of the individual for the criminal offense.
- 12.4.2 Network Telephone Corporation shall not knowingly assign to the BellSouth Premises any individual who was a former contractor of BellSouth and whose access to a BellSouth Premises was revoked due to commission of a criminal offense whether or not BellSouth sought prosecution of the individual for the criminal offense.
- 12.5 For each Network Telephone Corporation employee requiring access to a BellSouth Premises pursuant to this Attachment, Network Telephone Corporation shall furnish BellSouth, prior to an employee gaining such access, a certification that the aforementioned background check and security training were completed. The certification will contain a statement that no felony convictions were found and certifying that the security training was completed by the employee. If the employee's criminal history includes misdemeanor convictions, Network Telephone Corporation will disclose the nature of the convictions to BellSouth at that time. In the alternative, Network Telephone Corporation may certify to BellSouth that it shall not assign to the BellSouth Premises any personnel with records of misdemeanor convictions other than misdemeanor traffic violations.
- 12.6 At BellSouth's request, Network Telephone Corporation shall promptly remove from BellSouth's Premises any employee of Network Telephone Corporation BellSouth does not wish to grant access to its premises 1) pursuant to any investigation conducted by BellSouth or 2) prior to the initiation of an investigation if an employee of Network Telephone Corporation is found interfering with the property or personnel of BellSouth or another CLEC, provided that an investigation shall promptly be commenced by BellSouth.
- 12.7 Notification to BellSouth. BellSouth reserves the right to interview Network Telephone Corporation's employees, agents, or contractors in the event of wrongdoing in or around BellSouth's property or involving BellSouth's or another CLEC's property or personnel, provided that BellSouth shall provide reasonable notice to Network Telephone Corporation's Security contact of such interview. Network Telephone Corporation and its contractors shall reasonably cooperate with BellSouth's investigation into allegations of wrongdoing or criminal conduct committed by, witnessed by, or involving Network Telephone Corporation's employees, agents, or contractors. Additionally, BellSouth reserves the right to bill Network Telephone Corporation for all reasonable costs associated with investigations involving its employees, agents, or contractors if it is established and mutually agreed in good faith that Network Telephone Corporation's employees, agents, or contractors

are responsible for the alleged act. BellSouth shall bill Network Telephone Corporation for BellSouth property which is stolen or damaged where an investigation determines the culpability of Network Telephone Corporation's employees, agents, or contractors and where Network Telephone Corporation agrees, in good faith, with the results of such investigation. Network Telephone Corporation shall notify BellSouth in writing immediately in the event that Network Telephone Corporation discovers one of its employees already working on the BellSouth premises is a possible security risk. Upon request of the other Party, the Party who is the employer shall discipline consistent with its employment practices, up to and including removal from BellSouth Premises, any employee found to have violated the security and safety requirements of this section. Network Telephone Corporation shall hold BellSouth harmless for any damages resulting from such removal of its personnel from BellSouth premises.

- 12.8 Use of Supplies. Unauthorized use of telecommunications equipment or supplies by either Party, whether or not used routinely to provide telephone service (e.g. plug-in cards,) will be strictly prohibited and handled appropriately. Costs associated with such unauthorized use may be charged to the offending Party, as may be all associated investigative costs.
- 12.9 Use of Official Lines. Except for non-toll calls necessary in the performance of their work, neither Party shall use the telephones of the other Party on the BellSouth Premises. Charges for unauthorized telephone calls may be charged to the offending Party, as may be all associated investigative costs. In no event shall Network Telephone Corporation, its agents, vendors or employees access BellSouth or any other CLEC's end user telephone lines.
- 12.10 Accountability. Full compliance with the Security requirements of this section shall in no way limit the accountability of either Party to the other for the improper actions of its employees.

### **13. Destruction of Remote Collocation Space**

- 13.1 Remote Collocation Space is damaged. In the event a Remote Collocation Space is wholly or partially damaged by fire, windstorm, tornado, flood or by similar causes to such an extent as to be rendered wholly unsuitable for Network Telephone Corporation's permitted use hereunder, then either Party may elect within ten (10) business days after such damage, to terminate this Attachment with respect to the affected Remote Collocation Space, and if either Party shall so elect, by giving the other written notice of termination, both Parties shall stand released of and from further liability under the terms hereof with respect to such Remote Collocation Space. If the Remote Collocation Space shall suffer only minor damage and shall not be rendered wholly unsuitable for Network Telephone Corporation's permitted use, or is damaged and the option to terminate is not exercised by either Party, BellSouth covenants and agrees to proceed promptly without expense to Network Telephone Corporation, except for improvements not the property of BellSouth, to repair the

damage. BellSouth shall have a reasonable time within which to rebuild or make any repairs, and such rebuilding and repairing shall be subject to delays caused by storms, shortages of labor and materials, government regulations, strikes, walkouts, and causes beyond the control of BellSouth, which causes shall not be construed as limiting factors, but as exemplary only. Network Telephone Corporation may, at its own expense, accelerate the rebuild of its Remote Collocation Space and equipment provided however that a BellSouth Certified Contractor is used and the necessary space preparation has been completed. Rebuild of equipment must be performed by a BellSouth Certified Vendor. If Network Telephone Corporation's acceleration of the project increases the cost of the project, then those additional charges will be incurred by Network Telephone Corporation. Where allowed and where practical, Network Telephone Corporation may erect a temporary facility while BellSouth rebuilds or makes repairs. In all cases where the Remote Collocation Space shall be rebuilt or repaired, Network Telephone Corporation shall be entitled to an equitable abatement of rent and other charges, depending upon the unsuitability of the Remote Collocation Space for Network Telephone Corporation's permitted use, until such Remote Collocation Space is fully repaired and restored and Network Telephone Corporation's equipment installed therein (but in no event later than thirty (30) business days after the Remote Collocation Space is fully repaired and restored). Where Network Telephone Corporation has placed a Remote Site Adjacent Arrangement pursuant to section 3.4, Network Telephone Corporation shall have the sole responsibility to repair or replace said Remote Site Adjacent Arrangement provided herein. Pursuant to this section, BellSouth will restore the associated services to the Remote Site Adjacent Arrangement.

#### **14. Eminent Domain**

- 14.1 Power of Eminent Domain. If the whole of a Remote Collocation Space or Remote Site Adjacent Arrangement shall be taken by any public authority under the power of eminent domain, then this Attachment shall terminate with respect to such Remote Collocation Space or Remote Site Adjacent Arrangement as of the day possession shall be taken by such public authority and rent and other charges for the Remote Collocation Space or Remote Site Adjacent Arrangement shall be paid up to that day with proportionate refund by BellSouth of such rent and charges as may have been paid in advance for a period subsequent to the date of the taking. If any part of the Remote Collocation Space or Remote Site Adjacent Arrangement shall be taken under eminent domain, BellSouth and Network Telephone Corporation shall each have the right to terminate this Attachment with respect to such Remote Collocation Space or Remote Site Adjacent Arrangement and declare the same null and void, by written notice of such intention to the other Party within ten (10) business days after such taking.

#### **15. Nonexclusivity**

- 15.1 Attachment is not exclusive. Network Telephone Corporation understands that this Attachment is not exclusive and that BellSouth may enter into similar agreements with

other Parties. Assignment of space pursuant to all such agreements shall be determined by space availability and made on a first come, first served basis.

**EXHIBIT A: BELLSOUTH/Network Telephone Corporation RATES – ALABAMA  
REMOTE SITE COLLOCATION**

**Rates marked with an asterisk (\*) are interim and are subject to true-up**

USOC	Rate Element Description	Unit	Recurring Rate (RC)	Non-Recurring Rate (NRC)
PE1RA	Application Fee*	Per request	N/A	\$869.18
PE1RB	Cabinet Space *	Per Rack/Bay	\$230.19	N/A
PE1RC	Power Upgrade*	Per fused amp	N/A	ICB/TBD
PE1RD	Security Access System New Key*	Per Key	N/A	\$26.19
PE1SR	Space Availability Report*	Per premises requested	N/A	\$231.74
PE1RE	Request for CLLI*	Per Premises Requested	N/A	\$75.11
AEH	Additional Engineering Fee (Note 1)	Per request, First half hour/add'l half hour	N/A	-
PE1BT	Security Escort (Note 1) Basic Time	Per half hr/add'l half hr	NA	-
PE1OT	Overtime		NA	-
PE1PT	Premium Time		NA	-

Note(s):

N/A stipulates the part of the rate element (RC or NRC) not applying to the element  
ICB/TBD rates will be on an Individual Case Basis .

- (1) Security Escort and Additional Engineering Fees should not be needed for remote site collocation. If they become necessary, the parties will negotiate appropriate rates.



**EXHIBIT A: BELLSOUTH/Network Telephone Corporation RATES – FLORIDA**  
**REMOTE SITE COLLOCATION**

**Rates marked with an asterisk (\*) are interim and are subject to true-up**

USOC	Rate Element Description	Unit	Recurring Rate (RC)	Non-Recurring Rate (NRC)
PE1RA	Application Fee*	Per request	N/A	\$874.14
PE1RB	Cabinet Space *	Per Rack/Bay	\$232.50	N/A
PE1RC	Power Upgrade*	Per fused amp	N/A	ICB/TBD
PE1RD	Security Access System New Key*	Per Key	N/A	\$26.20
PE1SR	Space Availability Report*	Per premises requested	N/A	\$231.45
PE1RE	Request for CLI*	Per Premises Requested	N/A	\$75.13
AEH	Additional Engineering Fee ( <b>Note 1</b> )	Per request, First half hour/add'l half hour	N/A	-
PE1BT	Security Escort ( <b>Note 1</b> ) Basic Time	Per half hr/add'l half hr	NA	-
PE1OT	Overtime		NA	-
PE1PT	Premium Time		NA	-

Note(s):

N/A stipulates the part of the rate element (RC or NRC) not applying to the element  
 ICB/TBD rates will be on an Individual Case Basis.

- (1) Security Escort and Additional Engineering Fees should not be needed for remote site collocation. If they become necessary, the parties will negotiate appropriate rates.

**EXHIBIT A: BELLSOUTH/Network Telephone Corporation RATES – GEORGIA  
REMOTE SITE COLLOCATION**

**Rates marked with an asterisk (\*) are interim and are subject to true-up**

USOC	Rate Element Description	Unit	Recurring Rate (RC)	Non-Recurring Rate (NRC)
PE1RA	Application Fee*	Per request	N/A	\$931.61
PE1RB	Cabinet Space *	Per Rack/Bay	\$224.82	N/A
PE1RC	Power Upgrade*	Per fused amp	N/A	ICB/TBD
PE1RD	Security Access System New Key*	Per Key	N/A	\$25.88
PE1SR	Space Availability Report*	Per premises requested	N/A	\$229.02
PE1RE	Request for CLLI*	Per Premises Requested	N/A	\$74.22
AEH	Additional Engineering Fee ( <b>Note 1</b> )	Per request, First half hour/add'l half hour	N/A	-
PE1BT	Security Escort ( <b>Note 1</b> ) Basic Time	Per half hr/add'l half hr	NA	-
PE1OT	Overtime		NA	-
PE1PT	Premium Time		NA	-

Note(s):

N/A stipulates the part of the rate element (RC or NRC) not applying to the element  
ICB/TBD rates will be on an Individual Case Basis.

- (1) Security Escort and Additional Engineering Fees should not be needed for remote site collocation. If they become necessary, the parties will negotiate appropriate rates.

**EXHIBIT A: BELLSOUTH/Network Telephone Corporation RATES – KENTUCKY  
REMOTE SITE COLLOCATION**

**Rates marked with an asterisk (\*) are interim and are subject to true-up**

USOC	Rate Element Description	Unit	Recurring Rate (RC)	Non-Recurring Rate (NRC)
PE1RA	Application Fee*	Per request	N/A	\$868.91
PE1RB	Cabinet Space *	Per Rack/Bay	\$224.41	N/A
PE1RC	Power Upgrade*	Per fused amp	N/A	ICB/TBD
PE1RD	Security Access System New Key*	Per Key	N/A	\$26.60
PE1SR	Space Availability Report*	Per premises requested	N/A	\$231.82
PE1RE	Request for CLLI*	Per Premises Requested	N/A	\$75.13
AEH	Additional Engineering Fee (Note 1)	Per request, First half hour/add'l half hour	N/A	-
PE1BT	Security Escort (Note 1) Basic Time	Per half hr/add'l half hr	NA	-
PE1OT	Overtime		NA	-
PE1PT	Premium Time		NA	-

Note(s):

N/A stipulates the part of the rate element (RC or NRC) not applying to the element  
ICB/TBD rates will be on an Individual Case Basis.

- (1) Security Escort and Additional Engineering Fees should not be needed for remote site collocation. If they become necessary, the parties will negotiate appropriate rates.

**EXHIBIT A: BELLSOUTH/Network Telephone Corporation RATES – LOUISIANA  
REMOTE SITE COLLOCATION**

**Rates marked with an asterisk (\*) are interim and are subject to true-up**

USOC	Rate Element Description	Unit	Recurring Rate (RC)	Non-Recurring Rate (NRC)
PE1RA	Application Fee*	Per request	N/A	\$868.25
PE1RB	Cabinet Space *	Per Rack/Bay	\$257.01	N/A
PE1RC	Power Upgrade*	Per fused amp	N/A	ICB/TBD
PE1RD	Security Access System New Key*	Per Key	N/A	\$26.16
PE1SR	Space Availability Report*	Per premises requested	N/A	\$231.49
PE1RE	Request for CLLI*	Per Premises Requested	N/A	\$75.02
AEH	Additional Engineering Fee (Note 1)	Per request, First half hour/add'l half hour	N/A	-
PE1BT	Security Escort (Note 1) Basic Time	Per half hr/add'l half hr	NA	-
PE1OT	Overtime		NA	-
PE1PT	Premium Time		NA	-

Note(s):

N/A stipulates the part of the rate element (RC or NRC) not applying to the element  
ICB/TBD rates will be on an Individual Case Basis.

- (1) Security Escort and Additional Engineering Fees should not be needed for remote site collocation. If they become necessary, the parties will negotiate appropriate rates.

**EXHIBIT A: BELLSOUTH/Network Telephone Corporation RATES – MISSISSIPPI  
REMOTE SITE COLLOCATION**

**Rates marked with an asterisk (\*) are interim and are subject to true-up**

<b>USOC</b>	<b>Rate Element Description</b>	<b>Unit</b>	<b>Recurring Rate (RC)</b>	<b>Non-Recurring Rate (NRC)</b>
PE1RA	Application Fee*	Per request	N/A	\$868.60
PE1RB	Cabinet Space *	Per Rack/Bay	\$241.11	N/A
PE1RC	Power Upgrade*	Per fused amp	N/A	ICB/TBD
PE1RD	Security Access System New Key*	Per Key	N/A	\$26.16
PE1SR	Space Availability Report*	Per premises requested	N/A	\$231.43
PE1RE	Request for CLI*	Per Premises Requested	N/A	\$75.01
AEH	Additional Engineering Fee ( <b>Note 1</b> )	Per request, First half hour/add'l half hour	N/A	-
PE1BT	Security Escort ( <b>Note 1</b> ) Basic Time	Per half hr/add'l half hr	NA	-
PE1OT	Overtime		NA	-
PE1PT	Premium Time		NA	-

Note(s):

N/A stipulates the part of the rate element (RC or NRC) not applying to the element  
ICB/TBD rates will be on an Individual Case Basis.

- (1) Security Escort and Additional Engineering Fees should not be needed for remote site collocation. If they become necessary, the parties will negotiate appropriate rates.

**EXHIBIT A: BELLSOUTH/Network Telephone Corporation RATES – NORTH  
CAROLINA  
REMOTE SITE COLLOCATION**

**Rates marked with an asterisk (\*) are interim and are subject to true-up**

USOC	Rate Element Description	Unit	Recurring Rate (RC)	Non-Recurring Rate (NRC)
PE1RA	Application Fee*	Per request	N/A	\$865.34
PE1RB	Cabinet Space *	Per Rack/Bay	\$254.02	N/A
PE1RC	Power Upgrade*	Per fused amp	N/A	ICB/TBD
PE1RD	Security Access System New Key*	Per Key	N/A	\$26.06
PE1SR	Space Availability Report*	Per premises requested	N/A	\$230.60
PE1RE	Request for CLLI*	Per Premises Requested	N/A	\$74.74
AEH	Additional Engineering Fee (Note 1)	Per request, First half hour/add'l half hour	N/A	-
PE1BT	Security Escort (Note 1) Basic Time	Per half hr/add'l half hr	NA	-
PE1OT	Overtime		NA	-
PE1PT	Premium Time		NA	-

Note(s):

N/A stipulates the part of the rate element (RC or NRC) not applying to the element  
ICB/TBD rates will be on an Individual Case Basis.

- (1) Security Escort and Additional Engineering Fees should not be needed for remote site collocation. If they become necessary, the parties will negotiate appropriate rates.

**EXHIBIT A: BELLSOUTH/Network Telephone Corporation RATES – SOUTH  
CAROLINA  
REMOTE SITE COLLOCATION**

**Rates marked with an asterisk (\*) are interim and are subject to true-up**

<b>USOC</b>	<b>Rate Element Description</b>	<b>Unit</b>	<b>Recurring Rate (RC)</b>	<b>Non-Recurring Rate (NRC)</b>
PE1RA	Application Fee*	Per request	N/A	\$871.12
PE1RB	Cabinet Space *	Per Rack/Bay	\$246.44	N/A
PE1RC	Power Upgrade*	Per fused amp	N/A	ICB/TBD
PE1RD	Security Access System New Key*	Per Key	N/A	\$26.25
PE1SR	Space Availability Report*	Per premises requested	N/A	\$232.25
PE1RE	Request for CLLI*	Per Premises Requested	N/A	\$75.27
AEH	Additional Engineering Fee ( <b>Note 1</b> )	Per request, First half hour/add'l half hour	N/A	-
PE1BT	Security Escort ( <b>Note 1</b> ) Basic Time	Per half hr/add'l half hr	NA	-
PE1OT	Overtime		NA	-
PE1PT	Premium Time		NA	-

Note(s):

N/A stipulates the part of the rate element (RC or NRC) not applying to the element  
ICB/TBD rates will be on an Individual Case Basis.

- (1) Security Escort and Additional Engineering Fees should not be needed for remote site collocation. If they become necessary, the parties will negotiate appropriate rates.

**EXHIBIT A: BELLSOUTH/Network Telephone Corporation RATES – TENNESSEE**  
**REMOTE SITE COLLOCATION**

**Rates marked with an asterisk (\*) are interim and are subject to true-up**

USOC	Rate Element Description	Unit	Recurring Rate (RC)	Non-Recurring Rate (NRC)
PE1RA	Application Fee*	Per request	N/A	\$872.95
PE1RB	Cabinet Space *	Per Rack/Bay	\$219.37	N/A
PE1RC	Power Upgrade*	Per fused amp	N/A	ICB/TBD
PE1RD	Security Access System New Key*	Per Key	N/A	\$26.23
PE1SR	Space Availability Report*	Per premises requested	N/A	\$232.12
PE1RE	Request for CLLI*	Per Premises Requested	N/A	\$75.23
AEH	Additional Engineering Fee (Note 1)	Per request, First half hour/add'l half hour	N/A	-
PE1BT	Security Escort (Note 1) Basic Time	Per half hr/add'l half hr	NA	-
PE1OT	Overtime		NA	-
PE1PT	Premium Time		NA	-

Note(s):

N/A stipulates the part of the rate element (RC or NRC) not applying to the element  
 ICB/TBD rates will be on an Individual Case Basis.

- (1) Security Escort and Additional Engineering Fees should not be needed for remote site collocation. If they become necessary, the parties will negotiate appropriate rates.



**EXHIBIT B****ENVIRONMENTAL AND SAFETY  
PRINCIPLES**

The following principles provide basic guidance on environmental and safety issues when applying for and establishing Physical Collocation arrangements.

**1. GENERAL PRINCIPLES**

- 1.1 Compliance with Applicable Law. BellSouth and Network Telephone Corporation agree to comply with applicable federal, state, and local environmental and safety laws and regulations including U.S. Environmental Protection Agency (USEPA) regulations issued under the Clean Air Act (CAA), Clean Water Act (CWA), Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Superfund Amendments and Reauthorization Act (SARA), the Toxic Substances Control Act (TSCA), and OSHA regulations issued under the Occupational Safety and Health Act of 1970, as amended and NFPA and National Electrical Codes (NEC) and the NESC ("Applicable Laws"). Each Party shall notify the other if compliance inspections are conducted by regulatory agencies and/or citations are issued that relate to any aspect of this Attachment.
- 1.2 Notice. BellSouth and Network Telephone Corporation shall provide notice to the other, including Material Safety Data Sheets (MSDSs), of known and recognized physical hazards or Hazardous Chemicals existing on site or brought on site. Each Party is required to provide specific notice for known potential Imminent Danger conditions. Network Telephone Corporation should contact 1-800-743-6737 for BellSouth MSDS sheets.
- 1.3 Practices/Procedures. BellSouth may make available additional environmental control procedures for Network Telephone Corporation to follow when working at a BellSouth Premises (See Section 2, below). These practices/procedures will represent the regular work practices required to be followed by the employees and contractors of BellSouth for environmental protection. Network Telephone Corporation will require its contractors, agents and others accessing the BellSouth Premises to comply with these practices. Section 2 lists the Environmental categories where BST practices should be followed by CLEC when operating in the BellSouth Premises.
- 1.4 Environmental and Safety Inspections. BellSouth reserves the right to inspect the Network Telephone Corporation space with proper notification. BellSouth reserves the right to stop any Network Telephone Corporation work operation that imposes Imminent Danger to the environment, employees or other persons in the area or Facility.
- 1.5 Hazardous Materials Brought On Site. Any hazardous materials brought into, used, stored or abandoned at the BellSouth Premises by Network Telephone Corporation

are owned by Network Telephone Corporation. Network Telephone Corporation will indemnify BellSouth for claims, lawsuits or damages to persons or property caused by these materials. Without prior written BellSouth approval, no substantial new safety or environmental hazards can be created by Network Telephone Corporation or different hazardous materials used by Network Telephone Corporation at BellSouth Facility. Network Telephone Corporation must demonstrate adequate emergency response capabilities for its materials used or remaining at the BellSouth Facility.

- 1.6 Spills and Releases. When contamination is discovered at a BellSouth Premises, the Party discovering the condition must notify BellSouth. All Spills or Releases of regulated materials will immediately be reported by Network Telephone Corporation to BellSouth.
- 1.7 Coordinated Environmental Plans and Permits. BellSouth and Network Telephone Corporation will coordinate plans, permits or information required to be submitted to government agencies, such as emergency response plans, spill prevention control and countermeasures (SPCC) plans and community reporting. If fees are associated with filing, BellSouth and Network Telephone Corporation will develop a cost sharing procedure. If BellSouth's permit or EPA identification number must be used, Network Telephone Corporation must comply with all of BellSouth's permit conditions and environmental processes, including environmental "best management practices (BMP)" (see Section 2, below) and/or selection of BST disposition vendors and disposal sites.
- 1.8 Environmental and Safety Indemnification. BellSouth and Network Telephone Corporation shall indemnify, defend and hold harmless the other Party from and against any claims (including, without limitation, third-party claims for personal injury or death or real or personal property damage), judgments, damages, (including direct and indirect damages, and punitive damages), penalties, fines, forfeitures, costs, liabilities, interest and losses arising in connection with the violation or alleged violation of any Applicable Law or contractual obligation or the presence or alleged presence of contamination arising out of the acts or omissions of the indemnifying Party, its agents, contractors, or employees concerning its operations at the Facility.

## 2. **CATEGORIES FOR CONSIDERATION OF ENVIRONMENTAL ISSUES**

When performing functions that fall under the following Environmental categories on BellSouth's Premises, Network Telephone Corporation agrees to comply with the applicable sections of the current issue of BellSouth's Environmental and Safety Methods and Procedures (M&Ps), incorporated herein by this reference. Network Telephone Corporation further agrees to cooperate with BellSouth to ensure that Network Telephone Corporation's employees, agents, and/or subcontractors are knowledgeable of and satisfy those provisions of BellSouth's Environmental M&Ps which apply to the specific Environmental function being performed by Network Telephone Corporation, its employees, agents and/or subcontractors.

The most current version of reference documentation must be requested from BellSouth.

ENVIRONMENTAL CATEGORIES	ENVIRONMENTAL ISSUES	ADDRESSED BY THE FOLLOWING DOCUMENTATION
Disposal of hazardous material or other regulated material (e.g., batteries, fluorescent tubes, solvents & cleaning materials)	<p>Compliance with all applicable local, state, &amp; federal laws and regulations</p> <p>Pollution liability insurance</p> <p>EVET approval of contractor</p>	<ul style="list-style-type: none"> <li>• Std T&amp;C 450</li> <li>• Fact Sheet Series 17000</li> <li>• Std T&amp;C 660-3</li> <li>• Approved Environmental Vendor List (Contact E/S Management)</li> </ul>
Emergency response	Hazmat/waste release/spill firesafety emergency	<ul style="list-style-type: none"> <li>• Fact Sheet Series 1700</li> <li>• Building Emergency Operations Plan (EOP) (specific to and located on Premises)</li> </ul>
Contract labor/outsourcing for services with environmental implications to be performed on BellSouth Premises (e.g., disposition of hazardous material/waste; maintenance of storage tanks)	<p>Compliance with all applicable local, state, &amp; federal laws and regulations</p> <p>Performance of services in accordance with BST's environmental M&amp;Ps</p> <p>Insurance</p>	<ul style="list-style-type: none"> <li>• Std T&amp;C 450</li> <li>• Std T&amp;C 450-B</li> <li>• (Contact E/S for copy of appropriate E/S M&amp;Ps.)</li> <li>• Std T&amp;C 660</li> </ul>
Transportation of hazardous material	<p>Compliance with all applicable local, state, &amp; federal laws and regulations</p> <p>Pollution liability insurance</p> <p>EVET approval of contractor</p>	<ul style="list-style-type: none"> <li>• Std T&amp;C 450</li> <li>• Fact Sheet Series 17000</li> <li>• Std T&amp;C 660-3</li> <li>• Approved Environmental Vendor List (Contact E/S Management)</li> </ul>
<p>Maintenance/operations work which may produce a waste</p> <p>Other maintenance work</p>	<p>Compliance with all application local, state, &amp; federal laws and regulations</p> <p>Protection of BST employees and equipment</p>	<ul style="list-style-type: none"> <li>• Std T&amp;C 450</li> <li>• 29CFR 1910.147 (OSHA Standard)</li> <li>• 29CFR 1910 Subpart O</li> </ul>

		(OSHA Standard)
Janitorial services	<p>All waste removal and disposal must conform to all applicable federal, state and local regulations</p> <p>All Hazardous Material and Waste</p> <p>Asbestos notification and protection of employees and equipment</p>	<ul style="list-style-type: none"> <li>• P&amp;SM Manager - Procurement</li> <li>• Fact Sheet Series 17000</li> <li>• GU-BTEN-001BT, Chapter 3</li> <li>• BSP 010-170-001BS (Hazcom)</li> </ul>
Manhole cleaning	<p>Compliance with all applicable local, state, &amp; federal laws and regulations</p> <p>Pollution liability insurance</p> <p>EVET approval of contractor</p>	<ul style="list-style-type: none"> <li>• Std T&amp;C 450</li> <li>• Fact Sheet 14050</li> <li>• BSP 620-145-011PR Issue A, August 1996</li> <li>• Std T&amp;C 660-3</li> <li>• Approved Environmental Vendor List (Contact E/S Management)</li> </ul>
Removing or disturbing building materials that may contain asbestos	Asbestos work practices	<ul style="list-style-type: none"> <li>• GU-BTEN-001BT, Chapter 3</li> </ul>

### 3. DEFINITIONS

Generator. Under RCRA, the person whose act produces a Hazardous Waste, as defined in 40 CFR 261, or whose act first causes a Hazardous Waste to become subject to regulation. The Generator is legally responsible for the proper management and disposal of Hazardous Wastes in accordance with regulations.

Hazardous Chemical. As defined in the U.S. Occupational Safety and Health (OSHA) hazard communication standard (29 CFR 1910.1200), any chemical which is a health hazard or physical hazard.

Hazardous Waste. As defined in section 1004 of RCRA.

Imminent Danger. Any conditions or practices at a facility which are such that a danger exists which could reasonably be expected to cause immediate death or serious harm to people or immediate significant damage to the environment or natural resources.

Spill or Release. As defined in Section 101 of CERCLA.

#### **4. ACRONYMS**

E/S – Environmental/Safety

EVET - Environmental Vendor Evaluation Team

DEC/LDEC - Department Environmental Coordinator/Local Department Environmental Coordinator

GU-BTEN-001BT - BellSouth Environmental Methods and Procedures

NESC - National Electrical Safety Codes

P&SM - Property & Services Management

Std. T&C - Standard Terms & Conditions

**Exhibit C**  
**Interval Matrix**

State	Type	Space Availability/Bona Fide Firm Order	Application Response/Price Quote	Construction and Provisioning	
				Ordinary	Extraordinary
Alabama <sup>1</sup>	Cageless	10 Calendar Days	23 Business Days	60 Cal	90 Cal
Florida	Cageless	15 Calendar Days	15 Calendar Days*	90 Cal	NA
Georgia	Cageless	10 Calendar Days	30 Calendar Days	60 Cal	90 Cal
Kentucky <sup>1</sup>	Cageless	10 Calendar Days	23 Business Days	76 Bus.	91 Bus
Louisiana	Cageless	10 Calendar Days*	30 Calendar Days*	90 Cal	120 Cal
Mississippi	Cageless	10 Business Days	30 Business Days*	120 Cal	180Cal
North Carolina <sup>1</sup>	Cageless	10 Calendar Days	23 Business Days	76 Bus.	91 Bus
South Carolina	Cageless	10 Calendar Days	30 Calendar Days*	90 Cal	NA Cal
Tennessee <sup>1</sup>	Cageless	10 Calendar Days	23 Business Days	76 Bus.	91 Bus

\* Extended intervals shall apply when multiple applications are submitted.

Note 1: The intervals were set by the FCC's Order in Docket No. 98-147 released February 20, 2001.

The construction and provisioning intervals, as listed for these states, will apply if a forecast is submitted three (3) months prior to the application date. Extended intervals shall apply if the forecast is not received three (3) months in advance.



requested.





# **EXHIBIT NO. AWG -8**

**Winstar**

**Microwave Collocation Interconnection Agreement**

**By and Between**  
**BellSouth Telecommunications, Inc.**  
**And**  
**Winstar**

**BELLSOUTH  
MICROWAVE COLLOCATION  
MASTER AGREEMENT**

THIS AGREEMENT, made this 9th day of May, 2000, by and between BellSouth Telecommunications, Inc., ("BellSouth") a corporation organized and existing under the laws of the State of Georgia, and Winstar Wireless Inc., ("Winstar") a (corporation) organized and existing under the laws of Delaware;

**W I T N E S S E T H**

WHEREAS, Winstar is a telecommunications carrier and wishes to occupy space on the roofs of BellSouth Central Office Buildings for the physical collocation of microwave equipment as defined herein for the purpose of interconnection to BellSouth's facilities;

WHEREAS, BellSouth has space available on its Central Office rooftop(s) which Winstar desires to utilize; and

WHEREAS, BellSouth is willing to make such space available to Winstar on its Central Office rooftop(s) subject to all terms and conditions of this Agreement;

NOW THEREFORE, in consideration of the mutual agreements and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**MICROWAVE COLLOCATION**

Where technically feasible and where space is available, BellSouth will provide for physical collocation of Winstar's microwave equipment on the roofs of BellSouth's Central Office Buildings. Such equipment will be limited to that necessary for interconnection of Winstar's network facilities to BellSouth's network or access to BellSouth's unbundled network elements.

Microwave Collocation includes placement of supporting masts, non-penetrating roof mounts ("NPRM"), penetrating pipe stands, parapet mounts, and microwave antenna(e) on the roof top or other suitable exterior spaces of BellSouth's Central Offices and does not include the construction of towers. The Parties will work together to determine the preferable type of antenna mount reasonably considering such factors as permitting requirements, roof maintenance issues and any other relevant factors. BellSouth shall have final approval of the type of antenna mount. The Parties agree that the elements listed below reflect requirements for Microwave Collocation, which shall be provided in accordance with the rates, terms and conditions set forth below. The Parties acknowledge that Microwave Collocation requires unobstructed line-of-sight. Unobstructed line-of-sight will be provided by BellSouth where technically feasible but is not guaranteed to be available. Winstar accepts the responsibility of determining unobstructed line-of-sight at any location where Winstar applies for Microwave Collocation.

## **1. PROVISIONING PROCESS AND FEES**

### **A. Term**

The Term of this Agreement shall be for an initial period of two (2) years, beginning on the Agreement date stated above and ending two (2) years later on the month and day corresponding to such date.

### **B. Initial Site Visit**

Winstar will provide a Site Visit Request to BellSouth, in writing, setting forth the names of the BellSouth Central Office Buildings(s) Winstar wishes to visit for potential Microwave Collocation. Such site visit consists of Winstar representatives and appropriate BellSouth personnel visiting a BellSouth Central Office building for the purpose of determining whether an unobstructed line-of-sight is technically feasible. Winstar will be responsible for making an unobstructed line-of-sight determination. Such Site Visit does not obligate Winstar to request, or BellSouth to provide, Microwave Collocation on the site. The site visit will take place within fifteen (15) business days of receipt by BellSouth of Winstar's Site Visit Request or as soon thereafter as can be scheduled by the Parties.

Winstar will submit a Site Visit Request fee of \$250.00 and will pay for the reasonable cost BellSouth incurs for travel, if necessary, for each site requested with each Site Visit not to exceed two hours. Charges for site visits that take longer than two (2) hours will be charged by BellSouth to Winstar at BellSouth's loaded labor rates on a per hour basis in addition to the \$250.00 fee. BellSouth will make every effort possible to use resources near the requested location to minimize travel required. If BellSouth determines that airline travel is required, BellSouth will contact Winstar in an effort to discuss possible alternatives.

**C. Microwave Collocation Application**

Winstar shall submit the Application and Inquiry document and appropriate collocation application fee and BellSouth will respond to Microwave Collocation Application(s) pursuant to the relevant sections of BellSouth's FCC #1, Section 20 tariff (BellSouth Virtual Expanded Interconnection) , in addition to a Microwave Collocation Agreement for each central office building where Winstar seeks Microwave Collocation. This application and fees will apply both to space on the roof as well as space inside the BellSouth central office.

Winstar shall provide BellSouth with the following data on the application to the extent available recognizing that certain information may change depending on the final determination of the location providing line of sight:

- Type of antenna mount (pipe, NPRM)
- Type of equipment to be collocated within Winstar's case (vendor, capacity)
- Line of sight requirements (Azimuth)
- Relevant information includes: Station Name, Call Sign, Latitude, Longitude, Primary Antenna Type, Equipment Type, Equipment Emission, Power (dBm/Watts), Receive Level (dBm), EIRP (dBm/Watts), Transmit Frequency (MHz)
- WEIGHT AND CONFIGURATION
- Other relevant information as identified at the INITIAL site visit.

Roof Inspection: BellSouth may require a roof inspection at any site where Winstar requests Microwave Collocation. Winstar will bear the reasonable cost of the inspection including reasonable travel cost if any. BellSouth intends to use an independent contractor which may be accompanied by BellSouth personnel. The roof inspection fee shall be assessed on an individual case basis unless negotiated as a flat rate by the Parties. Such Roof Inspection does not obligate BellSouth to provide Microwave Collocation on the site.

If BellSouth concludes that rooftop/exterior space which provides Winstar with unobstructed line-of-sight does not appear to be technically feasible, BellSouth will provide Winstar a written explanation of such technical infeasibility within thirty (30) business days of BellSouth's receipt of the collocation application including those cases where BellSouth's known business plans provide for or include an addition to the building which would impact the line of sight. This explanation will be included in the response to Winstar's application.

BellSouth or its designated subcontractors shall perform all necessary work associated with the Microwave Collocation arrangement involving power and building modifications unless otherwise agreed to by the Parties. All work performed shall be done by a BellSouth certified vendor. Winstar shall select a vendor which has been approved as a BellSouth Certified Vendor to perform all engineering and installation work of the Microwave Collocation arrangement pursuant to TR-73503, BST Electrical Standards for Wireless Service Providers on BellSouth facilities Issue 1, Sept 1996, and BST Building Construction and Fire Safety Standards – Section 16170 – June 1998. In some cases Winstar must select separate BellSouth Certified Vendors for transmission equipment, switching equipment and power equipment. BellSouth shall provide Winstar with a list of Certified Vendors pursuant to Section 20.20 of BellSouth's FCC #1, Virtual Expanded Interconnection tariff and the Certified Vendor shall bill Winstar directly for all work performed for Winstar and BellSouth shall have not liability for nor responsibility to pay such charges imposed by the Certified Vendor. BellSouth shall consider certifying Winstar or any vendor proposed by Winstar.

If rooftop/exterior space is available BellSouth shall provide Winstar an estimate for such microwave collocation as described more fully in provision 1.D at the same time BellSouth provides its interior collocation space quote.

#### **D. Preparation of Estimate / Application Response**

Within thirty (30) business days of receiving from Winstar a single complete and accurate Application and Inquiry document, BellSouth will provide, as more fully described below, an estimate including an estimate for the Non-Recurring Charges and Monthly Recurring Charges pursuant to the rates and terms set forth in BellSouth's FCC #1, Section 20 tariff for virtual collocation and Exhibit B.

The estimate shall reflect the specifications submitted by Winstar and may change based on the actual field conditions encountered during construction.

(1) Estimate:

- (a) The Estimate /Application Response shall set forth separate estimated charges for the following work related to the installation of the Microwave Antenna Arrangement.

(i) **Architectural Plan and Structural Review:**

This shall be the reasonable sum of hourly charges of BellSouth Architects or its contractors necessary to review the plans for the Microwave Collocation Arrangement. This will include applicable consulting charges and fees for reviewing permitting material and/or assisting Winstar in the permitting process to the extent required.

(ii) **Permitting Review:**

This shall be the sum of the hourly charges of BellSouth Property and Services Management and/or Project Managers whose time was reasonably necessary and actually spent reviewing permitting material and/or assisting Winstar in the permitting process. BellSouth shall have final approval authority on all proposed conditions, (which shall not be unreasonably withheld) imposed by relevant jurisdictions and BellSouth shall have the right to be represented at all hearings in connection with governmental approvals.

(iii) **Exterior (and Related Interior) Building Modification Work:**

BellSouth will include a quote for BellSouth to perform coring within the Central Office, roof strengthening or any other exterior or related interior building modification that may be required.

(iv) **Supervision of General Contractor:**

This shall be the reasonable sum of the hourly charges, if necessary, of any BellSouth Property and Services Management personnel, Consultants, or Project Managers who monitor the Microwave Antenna Support Structure installation performed by Winstar's contractor. The level of BellSouth's personnel or consultants shall be commensurate with the requirements for supervising the project and monitoring construction.

(v) **Special Security Construction:**



If BellSouth demonstrates that new secure access to the Microwave Collocation location is reasonably necessary, the costs associated with the construction of such access shall be described on a separate schedule to be provided by BellSouth to Winstar.

(b) **Recurring Charges**

These consist of:

(i) **Monthly Recurring Roof-top Space Rental Fee:**

The Monthly Recurring Roof-top Space Rental Fee shall be on a per square foot basis with a minimum of 12 square feet per microwave arrangement as set forth in this Agreement in Exhibit B. Winstar is limited to building and structural support constraints for determining the number of antenna(e) which can be placed on a roof mount, pipe stand, or parapet mount. The diameter of the microwave antenna(e) will be subject to a height limitation of twenty (20) feet above the building or point of attachment, subject to line-of-sight, safety, and structural engineering guidelines, (e.g., weight, wind load). Such equipment will be subject to a structural analysis to be performed by BellSouth's Structural Engineer at Winstar's sole expense, to ensure that the equipment does not overload the building structure. If any structural reinforcement is required in order to accommodate the placement of the requested diameter and height of such microwave antenna(e), Winstar will not be allowed to place such microwave antenna(e). Winstar agrees that the height of the structure will be no greater than the minimum required to accommodate line of sight requirements. At no time shall an antenna (e) be directed across open roof space without approval of BellSouth which shall not be unreasonably withheld. Winstar shall be responsible for ensuring that the arrangement complies with local zoning requirements.

The billing for the Rooftop Space Rental Fee shall begin the date the interior and rooftop space preparation activities are complete and the space is made available to Winstar, or the date Winstar first begins the Rooftop microwave equipment installation, whichever is sooner. BellSouth will work with Winstar to avoid unreasonable time differences between the completion of rooftop space preparation and interior collocation space construction.

**E. Firm Order**

All estimates shall be valid for thirty (30) days from issuance, and Winstar shall accept or reject within such time period, unless an extension is requested in writing by Winstar and agreed to by BellSouth. Such extension will not exceed thirty (30) days. To accept an estimate, Winstar shall so state in writing by submitting a Firm Order to BellSouth and shall pay BellSouth 50% of the total estimated charges ("Initial Payment") with the balance of the actual charges due upon completion of the Microwave Collocation area and any necessary supporting electrical or building modification work. Payment requirements will be commensurate with BellSouth's FCC #1tariff, Section 20, and Exhibit B.

BellSouth will permit one accompanied site visit to Winstar's designated Microwave collocation arrangement location after receipt of the Firm Order without charge to Winstar.

**F. Pre-Design Meeting**

Unless otherwise agreed to by the Parties, a joint planning meeting or other method of joint planning between BellSouth and Winstar will commence within a maximum of 15 business days from BellSouth's receipt of a Firm Order and the payment of agreed upon fees. At such meeting, the Parties will agree to the preliminary design of the Microwave Collocation Space and the equipment configuration requirements as reflected in the Application and affirmed in the Firm Order. The Collocation Space Completion time period will be provided to Winstar during the joint planning meeting or as soon as possible thereafter. BellSouth will complete all design work following the joint planning meeting.

**G. Equipment and Testing:**

Winstar shall be responsible for providing, at its sole expense, the antenna (e), coaxial cable, brackets, connectors, support structure, grounding and bonding materials, and weather-proofing materials for such support structure or antenna (e) required for the Microwave Collocation. Winstar shall also be solely responsible for final adjustments (e.g., pointing) of the antenna (e).

**H. Use Permits:**

Winstar shall be responsible for obtaining all relevant Use Permits (UPs) and shall bear all costs and fees. Winstar shall regularly apprise BellSouth of the status of such permitting and consult with BellSouth as reasonably necessary.

**2. NO PROPERTY RIGHT CONFERRED**

Notwithstanding anything contained herein to the contrary, Microwave Collocation shall not confer or be deemed to confer any property interest or right in BellSouth's property, and Winstar hereby acknowledges that the rights conferred hereunder shall constitute merely a non-exclusive license to use a portion of BellSouth's property solely for the purposes set forth herein. A limit of two (2) Winstar Microwave Collocation arrangements per Central Office will be permitted unless otherwise agreed to by the Parties.

Title to Winstar's Microwave Collocation equipment shall remain in Winstar as the property of Winstar and shall not become fixtures to BellSouth's property.

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### 3. RESPONSIBILITY OF THE PARTIES

- A. Winstar shall obtain any and all applicable and necessary permits, variances, licenses, approvals and authorizations from the governmental agencies with jurisdiction, including without limitation, use permits, buildings permits, FCC licenses and FAA approval, if required, to operate and maintain Winstar's facilities during the Term of this Agreement.
- B. Winstar shall not use BellSouth's property or permit Winstar's agents or contractors to do anything in or about the Central Office (s) in conflict with any applicable law affecting the condition, use or occupancy of the property or the installation, operation or maintenance of Winstar's Microwave Collocation equipment. Winstar shall not commit any public or private nuisance or any other act or practice which might or would materially disturb the quiet enjoyment of any occupant of nearby properties.
- C. Where BellSouth performs any of the work pursuant to the quotes set forth in 1.C.(2)(a), BellSouth shall select the architect, engineers, surveyors, contractors, suppliers, consultants and subcontractors which may be necessary to develop plans, furnish materials and equipment, and perform construction work. BellSouth shall manage all such work in accordance with the plans and specifications approved by the Parties, all applicable laws, codes and regulations, and shall require that all contractors perform their work in a good workmanlike manner. BellSouth shall require that all BellSouth Contractors include Winstar as an ADDITIONAL INSURED to any policies of insurance maintained by the Contractor for purposes of the work, and shall indemnify Winstar from losses, costs and expenses incurred as a result of contractor's work. Winstar hereby acknowledges and agrees that BellSouth shall not be liable for the work performed, material, supplies, or work products furnished by any contractor, and that Winstar shall look solely to the contractor and any warranties, indemnification or insurance furnished by such Contractor, waiving and releasing BellSouth from any claim or liability therefrom except to the extent of the negligence or willful misconduct of BellSouth in the performance of its project management activities.
- D. Notwithstanding any other provision of this Agreement, Winstar hereby acknowledges that BellSouth may have existing wireless communications facilities of its own or of other tenants or licensees on or at BellSouth's Central Office, and/or BellSouth may desire from time to time throughout the term of this Agreement to enter into agreements with other wireless communications providers for the installation, operation and maintenance of communications facilities on or at BellSouth's Property ("Other Wireless Carriers"). Winstar shall cooperate with BellSouth and all Other Wireless Carriers so as to reasonably accommodate the needs and requirements of such Other Wireless Carriers with respect to the installation, operation, use and maintenance of their equipment and facilities, and all necessary alterations, modifications and other improvements to BellSouth's property, including utility connections and access. Subject to ownership of any exclusive frequency rights, Winstar's facilities shall not physically, electronically, or inductively interfere with the existing BellSouth or other customers' or tenants' existing facilities. Each transmitter individually and all transmitters collectively at a given location shall comply with appropriate federal, state, and/or local regulations governing the safe levels of RF radiation. The foregoing obligations shall apply equally to all Other Wireless Carriers.
- E. In the event Winstar desires to relocate any of its then-existing Microwave Collocation facilities to a different place on the relevant BellSouth Central Office rooftop, Winstar shall submit a new application with fee to BellSouth specifying the new location Winstar proposes to occupy. If the relocation does not require BellSouth to expend capital, then a Subsequent Application fee will apply as covered in Exhibit B.

BellSouth shall, within thirty (30) business days of receipt of a complete application, approve such relocation or describe, in writing, why such relocation is not technically feasible.

F. Winstar's Insurance Obligations

1. Winstar shall, at its sole cost and expense, procure, maintain, and keep in force insurance as specified in this Section 3F and underwritten by insurance companies licensed to do business in the states applicable under this Agreement and having a Best's Insurance Rating of A-.

2. Winstar shall maintain the following specific coverage:

Commercial General Liability coverage in the amount of ten million dollars (\$10,000,000.00) or a combination of Commercial General Liability and Excess/Umbrella coverage totaling not less than ten million dollars (\$10,000,000.00). BellSouth shall be named as an Additional Insured on the Commercial General Liability policy as specified herein.

- a. Statutory Workers Compensation coverage and Employers Liability coverage in the amount of one hundred thousand dollars (\$100,000.00) each accident, one hundred thousand dollars (\$100,000.00) each employee by disease, and five hundred thousand dollars (\$500,000.00) policy limit by disease.
- b. All Risk Property coverage on a full replacement cost basis insuring all of Winstar's real and personal property situated on or within BellSouth's Central Office location(s).
- c. Winstar may elect to purchase business interruption and contingent business interruption insurance, having been advised that BellSouth assumes no liability for loss of profit or revenues should an interruption of service occur.
- d. The limits set forth in Section 3F above may be increased by BellSouth from time to time during the term of this Agreement upon thirty (30) days notice to Winstar to at least such minimum limits as shall then be customary with respect to comparable occupancy of BellSouth structures.
- e. All policies purchased by Winstar shall be deemed to be primary and not contributing to or in excess of any similar coverage purchased by BellSouth. All insurance must be in effect on or before the date equipment is delivered to BellSouth's Premises and shall remain in effect for the term of this Agreement or until all Winstar's property has been removed from BellSouth's Premises, whichever period is longer. If Winstar fails to maintain required coverage, BellSouth may pay the premiums thereon and seek reimbursement of same from Winstar.
- f. Winstar shall submit certificates of insurance reflecting the coverage required pursuant to this Section a minimum of ten (10) business days prior to the commencement of any work in the Collocation Space. Failure to meet this interval may result in construction and equipment installation delays. Winstar shall arrange for BellSouth to receive thirty (30) business days' advance notice of cancellation from Winstar's insurance company. Winstar shall forward a certificate of insurance and notice of cancellation/non-renewal to BellSouth at the following address:

BellSouth Telecommunications, Inc.  
Attn.: Risk Management Coordinator  
675 W. Peachtree Street  
Rm. 17H53  
Atlanta, Georgia 30375

- g. Winstar must conform to recommendations made by BellSouth's fire insurance company to the extent BellSouth has agreed to, or shall hereafter agree to, such recommendations.
- h. Self-Insurance. If Winstar's net worth exceeds five hundred million dollars (\$500,000,000), Winstar may elect to request self-insurance status in lieu of obtaining any of the insurance required in Sections XXX and XXX. Winstar shall provide audited financial statements to BellSouth thirty (30) days prior to the commencement of any work in the Collocation Space. BellSouth shall then review such audited financial statements and respond in writing to Winstar in the event that self-insurance status is not granted to Winstar. If BellSouth approves Winstar for self-insurance, Winstar shall annually furnish to BellSouth, and keep current, evidence of such net worth that is attested to by one of Winstar's corporate officers. The ability to self-insure shall continue so long as the Winstar meets all of the requirements of this Section. If the Winstar subsequently no longer satisfies this Section, Winstar is required to purchase insurance as indicated by Sections XXX and XXX.

The net worth requirements set forth in Section XXX may be increased by BellSouth from time to time during the term of this Agreement upon thirty (30) days' notice to Winstar to at least such minimum limits as shall then be customary with respect to comparable occupancy of BellSouth structures.

- i. Failure to comply with the provisions of this Section will be deemed a material breach of this Agreement.
- G. At its sole cost and expense, Winstar shall maintain Winstar's Microwave equipment, including without limitation, all necessary repairs, replacements and restorations. In addition, Winstar shall keep its Microwave Collocation space in a good, neat, sanitary and workmanlike condition. If Winstar shall fail to keep its Microwave Collocation space in such workmanlike condition after ten (10) days written notice from BellSouth, BellSouth shall have the right but not the obligation to clean up the space on Winstar's behalf. In such event, Winstar shall be liable to BellSouth for the cost and expense of such work, upon written demand.

#### 4. SECURE ACCESS

- A. A security escort will be required whenever Winstar or its approved agent desires access to the roof after the one accompanied site visit allowed pursuant to Section 1D prior to completing BellSouth's Security Training requirements as specified below. Rates for a security escort are assessed in one-half (1/2) hour increments according to the schedule as set forth in Section 20.31G of the BellSouth Virtual Expanded Interconnection Tariff.
- B. The security and safety requirements set forth in this section are as stringent as the security requirements BellSouth maintains at its own premises either for their own employees or for authorized contractors. Only Winstar employees, BellSouth Certified Contractors and authorized employees, or authorized agents of Winstar will be permitted in the BellSouth Premises. Winstar shall provide its employees and agents with picture identification which must be worn and visible at all times while in areas in or around the Premises. The photo Identification card shall bear, at a minimum, the employee's name and photo, and the Winstar name. BellSouth reserves the right to remove from its premises any employee of Winstar not possessing identification issued by Winstar or who have violated any of BellSouth's policies as outlined in the CLEC Security Training documents. Winstar shall hold BellSouth harmless for any damages resulting from such removal of its personnel from BellSouth premises. Winstar shall be solely responsible for ensuring that any Guest of Winstar is in compliance with all subsections of this Section 4.
- C. Winstar will be required, at its own expense, to conduct a statewide investigation of criminal history records for each Winstar employee being considered for work on the BellSouth Premises, for the states/counties where the Winstar employee has worked and lived for the past five years. Where state law does not permit statewide collection or reporting, an investigation of the applicable counties is acceptable.
- D. Winstar will be required to administer to their personnel assigned to the BellSouth Premises security training either provided by BellSouth, or meeting criteria defined by BellSouth.
- E. Winstar shall not assign to the BellSouth Premises any personnel with records of felony criminal convictions. Winstar shall not assign to the BellSouth Premises any personnel with records of misdemeanor convictions, except for misdemeanor traffic violations, without advising BellSouth of the nature and gravity of the offense(s). BellSouth reserves the right to refuse building access to any Winstar personnel who have been identified to have misdemeanor criminal convictions. Notwithstanding the foregoing, in the even that Winstar chooses not to advise BellSouth of the nature and gravity of any misdemeanor conviction, Winstar may, in the alternative, certify to BellSouth that it shall not assign to the BellSouth Premises any personnel with records of misdemeanor convictions (other than misdemeanor traffic violations).
- F. For each Winstar employee requiring access to a BellSouth Premises pursuant to this Agreement, Winstar shall furnish BellSouth, prior to an employee gaining such access, a certification that the aforementioned background check and security training were completed. The certification will contain a statement that no felony convictions were found and certifying that the security training was completed by the employee. If the employee's criminal history includes misdemeanor

convictions, Winstar will disclose the nature of the convictions to BellSouth at that time. In the alternative, Winstar may certify to BellSouth that it shall not assign to the BellSouth Premises any personnel with records of misdemeanor convictions other than misdemeanor traffic violations.

- G. At BellSouth's request, Winstar shall promptly remove from the BellSouth's Premises any employee of Winstar BellSouth does not wish to grant access to its premises 1) pursuant to any investigation conducted by BellSouth or 2) prior to the initiation of an investigation in the event that an employee of Winstar is found interfering with the property or personnel of BellSouth or another CLEC, provided that an investigation shall promptly be commenced by BellSouth.
- H. Notification to BellSouth. BST reserves the right to interview Winstar's employees, agents, or contractors in the event of wrongdoing in or around BellSouth's property or involving BellSouth's or another CLEC's property or personnel, provided that BellSouth shall provide reasonable notice to Winstar's Security contact of such interview. Winstar and its contractors shall reasonably cooperate with BellSouth's investigation into allegations of wrongdoing or criminal conduct committed by, witnessed by, or involving Winstar's employees, agents, or contractors. Additionally, BellSouth reserves the right to bill Winstar for all reasonable costs associated with investigations involving its employees, agents, or contractors if it is established and mutually agreed in good faith that Winstar's employees, agents, or contractors are responsible for the alleged act. BellSouth shall bill Winstar for BellSouth property which is stolen or damaged where an investigation determines the culpability of Winstar's employees, agents, or contractors and where Winstar agrees, in good faith, with the results of such investigation. Winstar shall notify BellSouth in writing immediately in the event that the CLEC discovers one of its employees already working on the BellSouth premises is a possible security risk. Upon request of the other Party, the Party who is the employer shall discipline consistent with its employment practices, up to and including removal from the BellSouth Premises, any employee found to have violated the security and safety requirements of this section. Winstar shall hold BellSouth harmless for any damages resulting from such removal of its personnel from BellSouth premises.
- I. Use of Supplies. Unauthorized use of telecommunications equipment or supplies by either Party, whether or not used routinely to provide telephone service (e.g. plug-in cards,) will be strictly prohibited and handled appropriately. Costs associated with such unauthorized use may be charged to the offending Party, as may be all associated investigative costs.
- J. Use of Official Lines. Except for non-toll calls necessary in the performance of their work, neither Party shall use the telephones of the other Party on the BellSouth Premises. Charges for unauthorized telephone calls may be charged to the offending Party, as may be all associated investigative costs.
- K. Accountability. Full compliance with the Security requirements of this section shall in no way limit the accountability of either Party to the other for the improper actions of its employees

## 5 CABLE PROVISIONING

Winstar is responsible for providing, running, and maintaining the cable from the radio frequency (RF) equipment to the collocation cage through the use of a BellSouth Certified Vendor. BellSouth transmission engineering bonding and grounding rules MUST be followed where the cable enters the central office and at the equipment location. BellSouth shall



designate the point of entrance of the cable from the roof into the BellSouth Central Office building. BellSouth will be responsible for providing any necessary cable support structure at a rate indicated in ExhibitB. A BellSouth consultant must approve how the cable will be run.

## **6. LINE OF SIGHT**

BellSouth will manage roof space on a first-come /first-served basis. BellSouth will work cooperatively with Winstar in determining suitable space for Winstar equipment. Once the parties mutually determine an initial location which provides for line of sight pursuant to 1A, and 1E above, Winstar is guaranteed a clear line of sight from the antenna mount and the edge of BellSouth's roof line. If BellSouth requires a building enhancement modification or through the placement of additional equipment obstructs Winstar's existing line of sight, BellSouth will work with Winstar to move the antenna mount or raise the height of the antenna mount for a clear line of sight. The costs of this modification will be borne by BellSouth.

If a third party elects to place equipment on the roof that obstructs an existing line of sight, the third party application will be denied unless all three parties mutually agree to move an existing arrangement to allow for a clear line of sight. The costs of this application will be borne by the third party.

## **7. ANTENNA MODIFICATIONS**

Winstar is limited to placement of two microwave antenna (e) within the designated space. Winstar must submit an application with a fee before adding additional equipment to the microwave collocation space or to move equipment outside of designated space. Winstar may not construct improvements or make Major Alterations to its rooftop space or microwave transmission facilities without prior written approval from BellSouth, which will not be unreasonably withheld. BellSouth shall respond to any single request (application) within thirty (30) business days. "Major Alterations" shall include but not be limited to: (i) additional construction by Winstar of support equipment within its rooftop space, (ii) any modification to the rooftop space. "Major Alterations" shall not include (i) replacement of mounted equipment with like-sized and weight or smaller mounted equipment or similar functionality, (ii) routine repairs and maintenance to such microwave transmission facilities. Additional equipment or movement of existing equipment will require a new application and application fee. Anything outside of normal maintenance may require a subsequent application fee as indicated in Exhibit B of the Collocation Agreement.

## **8. USE OF ANTENNA SPACE ON OTHER BELL SOUTH TOWERS**

Requirements for antenna space on existing towers that are not part of a BellSouth central office will be handled through BellSouth's Master Licensing Process.

## **9. EQUIPMENT REMOVAL**

- A. If, at any time, BellSouth reasonably determines that any of Winstar's facilities or equipment or the installation of Winstar's facilities or equipment does not meet the requirements outlined in this Agreement, Winstar will be responsible for the costs associated with the removal of such facilities or equipment or modification of the facilities or equipment or installation thereof to render it compliant. The removal of equipment must be done by a BellSouth Certified Vendor unless the Parties agree that another certified vendor can be used. If Winstar fails to correct any non-compliance with these standards or fails to demonstrate that the equipment is compliant within fifteen (15) days' written notice to Winstar, BellSouth may have the facilities or equipment removed or the condition correct at Winstar's expense. Removal of Microwave Collocation equipment shall be as specified in paragraph 9B below.
- B. Except where otherwise agreed to by the Parties, Winstar may terminate occupancy in a particular Collocation Space upon thirty (30) business days prior written notice to BellSouth. Upon termination of such occupancy, Winstar at its expense shall remove its equipment and other property from the Collocation Space. Winstar shall have thirty (30) business days from the termination date to complete such removal, provided, however, that Winstar shall continue payment of monthly fees to BellSouth until such date as Winstar has fully vacated the Collocation Space. Should Winstar fail to vacate the Collocation Space within thirty (30) business days from the termination date, BellSouth shall have the right to remove the equipment and other property of Winstar at Winstar's expense and with no liability for damage or injury to Winstar's property unless caused by the gross negligence or intentional misconduct of BellSouth. Upon expiration of this Agreement with respect to a Collocation Space, Winstar shall surrender such Collocation Space to BellSouth in the same condition as when first occupied by the Winstar except for ordinary wear and tear unless otherwise agreed to by the Parties.

## **10. NATURE OF USE**

Winstar equipment must comply with BellCore Network Equipment Building System (NEBS) Requirements, Electromagnetic Compatibility and Electrical Safety Generic Criteria for Network Telecommunication Equipment (TR-NWT-001089), and FCC OET Bulletin 65 dated 08/97. Requirements of provision 20.18 of BellSouth's FCC #1 tariff also apply. The operation of Winstar's microwave equipment shall comply with all applicable federal and state RF guidelines.

## **11. POWER REQUIREMENTS FOR MICROWAVE ARRANGEMENT**

BellSouth will not provide power or environmental support to the roof space. If BellSouth agrees in response to a specific request by Winstar to provide power or environmental support to the roof space, Winstar will bear all associated costs as specified by BellSouth to provide such services.

## **12. GROUNDING AND BONDING**

Winstar at its expense will ensure that any microwave equipment placed on the rooftop collocation space or in the building shall be grounded and bonded according to BellSouth's standards which shall be at a minimum consistent with industry standards. BellSouth agrees that grounding and bonding requirements shall be applied in parity to itself and other Interconnectors for similar types of equipment.

## **13. TARIFF PROVISIONS**

Any provision provided specifically herein shall be in addition to applicable provisions in BellSouth's FCC #1, Section 20 tariff, BellSouth Virtual Expanded Interconnection .

## **14. MECHANICS LIENS**

If any mechanics lien or other liens shall be filed against property of either Party (BellSouth or Winstar), or any improvement thereon by reason of or arising out of any labor or materials furnished or alleged to have been furnished or to be furnished to or for the other Party or by reason of any changes, or additions to said property made at the request or under the direction of the other Party, the other Party directing or requesting those changes shall, within thirty (30) business days after receipt of written notice from the Party against whose property said lien has been filed, either pay such lien or cause the same to be bonded off the affected property in the manner provided by law. The Party causing said lien to be placed against the property of the other shall also defend, at its sole cost and expense, on behalf of the other, any action, suit or proceeding which may be brought for the enforcement of such liens and shall pay any damage and discharge any judgment entered thereon.

## **15. DESTRUCTION OF THE MICROWAVE COLLOCATION SPACE**

In the event the Microwave Collocation Space is wholly or partially damaged by fire, windstorm, tornado, flood or by similar causes to such an extent as to be rendered wholly unsuitable for Winstar's permitted use hereunder, then either Party may elect within ten (10) business days after such damage, to terminate this Agreement, and if either Party shall so elect, by giving the other written notice of termination, both Parties shall stand released of and from further liability under the terms hereof. If the Microwave Collocation Space shall suffer only minor damage and shall not be rendered wholly unsuitable for Winstar's permitted use, or is damaged and the option to terminate is not exercised by either Party, BellSouth covenants and agrees to proceed promptly without expense to Winstar, except for improvements not the property of BellSouth, to repair the damage. BellSouth shall have a reasonable time within which to rebuild or make any repairs, and such rebuilding and repairing shall be subject to delays caused by storms, shortages of labor and materials, government regulations, strikes, walkouts, and causes beyond the control of BellSouth, which causes shall not be construed as limiting factors, but as exemplary only. Winstar may, at its own expense, accelerate the rebuild of its Microwave Collocation Space and equipment provided however that a BellSouth Certified Contractor is used and the necessary space preparation has been

completed. Rebuild of equipment must be performed by a BellSouth Certified Vendor. If Winstar's acceleration of the project increases the cost of the project, then those additional charges will be incurred by Winstar. Where allowed and where practical, Winstar may erect a temporary facility while BellSouth rebuilds or makes repairs. In all cases where the Microwave Collocation Space shall be rebuilt or repaired, Winstar shall be entitled to an equitable abatement of rent and other charges, depending upon the unsuitability of the Microwave Collocation Space for Winstar's permitted use, until such Microwave Collocation Space is fully repaired and restored and Winstar's equipment installed therein (but in no event later than thirty (30) business days after the Microwave Collocation Space is fully repaired and restored).

#### **16. EMINENT DOMAIN**

If the whole of the Microwave Collocation Space shall be taken by any public authority under the power of eminent domain, then this Agreement shall terminate with respect to such Microwave Collocation Space as of the day possession shall be taken by such public authority and rent and other charges for the Microwave Collocation Space shall be paid up to that day with proportionate refund by BellSouth of such rent and charges as may have been paid in advance for a period subsequent to the date of the taking. If any part of the Microwave Collocation Space shall be taken under eminent domain, BellSouth and Winstar shall each have the right to terminate this Agreement with respect to such Microwave Collocation Space and declare the same null and void, by written notice of such intention to the other Party within ten (10) business days after such taking

#### **17. NONEXCLUSIVITY**

Winstar understands that this Agreement is not exclusive and that BellSouth may enter into similar agreements with other Parties. Assignment of space pursuant to all such agreements shall be determined by space availability and made on a first come, first served basis.

#### **18. NOTICES**

A. Except as otherwise provided herein, any notices or demands that are required by law or under the terms of this Agreement shall be given or made by Winstar or BellSouth in writing and shall be given by hand delivery, or by certified or registered mail, and addressed to the parties as follows:

To BellSouth:

600 N. 19<sup>th</sup> Street

9<sup>th</sup> Floor

Birmingham, AL 35240

ATTN: CLEC Account Team

To Winstar:

1615 L Street, NW

Suite 1260

Washington, DC 20036

ATTN: Steve Murray

B. Such notices shall be deemed to have been given in the case of certified or registered mail when deposited in the United States mail with postage prepaid.

#### **19. INDEMNITY / LIMITATION OF LIABILITY**

Winstar shall be liable for any damage to property, equipment or facilities or injury to person caused by the activities of Winstar, its agents or employees pursuant to, or in furtherance of, rights granted under this Agreement. Winstar shall indemnify and hold BellSouth harmless from and against any judgments, fees, costs or other expenses resulting or claimed to result from such activities by Winstar, its agents or employees.

BellSouth shall not be liable to Winstar for any interruption of Winstar's service or for interference with the operation of Winstar's communications facilities, or for any special, indirect, incidental or consequential damages arising in any manner, including BellSouth's negligence, out of the use of the Microwave Collocation Space(s) and Winstar shall indemnify, defend and hold BellSouth harmless from and against any and all claims, demands, causes of action, costs and reasonable attorneys' fees with respect to such special, indirect, incidental or consequential damages.

Nothing contained herein shall require Winstar to indemnify and hold harmless BellSouth for any claims to the extent caused by BellSouth's sole negligence, gross negligence or willful misconduct.

## **20. PUBLICITY**

17.1 Winstar agrees to submit to BellSouth all advertising, sales promotion, press releases, and other publicity matters relating to this Agreement or mentioning or implying the tradenames, logos, trademarks or service marks (hereinafter "Marks") of BellSouth Corporation and/or any of its affiliated companies or language from which the connection of said Marks therewith may be inferred or implied, or mentioning or implying the names of any personnel of BellSouth Corporation and/or any of its affiliated companies, and Winstar further agrees not to publish or use such advertising, sales promotions, press releases, or publicity matters without BellSouth's prior written consent.

## **21. FORCE MAJEURE**

Neither party shall be in default by reason of any failure in performance of this Agreement, in accordance with its terms and conditions, if such failure arises out of causes beyond the control of the nonperforming party including, but not restricted to, acts of God, acts of government, insurrections, fires, floods, accidents, epidemics, quarantines, restrictions, strikes, freight embargoes, inability to secure raw materials or transportation facilities, acts or omissions of carriers or any and all other causes beyond the party's control.

## **22. YEAR 2000 COMPLIANCE**

Each party warrants that it has implemented a program the goal of which is to ensure that all collocated equipment, software, hardware and related materials (collectively called "Systems") delivered, connected with BellSouth or supplied in the furtherance of the terms and conditions specified in this Agreement: (i) will record, store, process and display calendar dates falling on or after January 1, 2000, in the same manner, and with the same functionality as such software records, stores, processes and calendar dates falling on or before December 31, 1999; and (ii) shall include without limitation date data century recognition, calculations that accommodate same century and multcentury formulas and date values, and date data interface values that reflect the century.

## **23. ASSIGNMENT**

Winstar acknowledges that this Agreement does not convey any right, title or interest in the Central Office to Winstar. This Agreement is not assignable by either party without the prior

written consent of the other party, and any attempt to assign any of the rights, duties or obligations of this Agreement without such consent is void. Notwithstanding the foregoing, either party may assign any rights, duties or obligations of this Agreement to a parent, subsidiary or affiliate without the consent of the other party.

#### **24. NO IMPLIED WAIVER**

No consent or waiver by either party to or of any breach of any covenant, term, condition, provision or duty of the other party under this Agreement shall be construed as a consent to or waiver of any other breach of the same or any other covenant, term, condition, provision or duty. No such consent or waiver shall be valid unless in writing and signed by the party granting such consent or waiver.

#### **25. GOVERNING LAW**

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia, without regard to its conflict of laws principles.

#### **26. COMPLIANCE WITH LAWS**

The Parties agree to comply with all applicable federal, state, and local laws, rules and regulations in the performance of this Agreement.

#### **27. RESOLUTION OF DISPUTES**

Except as otherwise stated in this Agreement, the Parties agree that if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, the parties will petition the Commission in the state where the services are provided pursuant to this Agreement for a resolution of the dispute. However, each party reserves any rights it may have to seek judicial review of any ruling made by the Public Service Commission concerning this Agreement.

#### **28. SECTION HEADINGS**

The section headings used herein are for convenience only, and shall not be deemed to constitute integral provisions of this Agreement.

#### **29. AUTHORITY**

Each of the parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such party has the full right, power and authority to enter into and execute this Agreement on such party's behalf and that no consent from any other person or entity is required as a condition precedent to the legal effect of this Agreement.

#### **30. REVIEW OF AGREEMENT**

The parties acknowledge that each has had an opportunity to review and negotiate this Agreement and has executed this Agreement only after such review and negotiation. The Parties further agree that this Agreement shall be deemed to have been drafted by both BellSouth and Winstar and the terms and conditions contained herein shall not be construed any more strictly against one party or the other.

**31. FILING OF AGREEMENT**

Upon execution of this Agreement it shall be filed with the appropriate state regulatory agency pursuant to the requirements of section 252 of the Act. If the regulatory agency imposes any filing or public interest notice fees regarding the filing or approval of the Agreement, said costs shall be borne by Winstar.

**32. ENTIRE AGREEMENT**

This Agreement contains the full understanding of the Parties (superseding all prior or contemporaneous correspondence between the Parties) and shall constitute the entire agreement between BellSouth and Winstar and may not be modified or amended other than by a written instrument signed by both parties. If any conflict arises between the terms and conditions contained in this Agreement and those contained in a filed tariff, the terms and conditions of this Agreement shall control.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives in one or more counterparts, each of which shall constitute an original, on the day and year first above written.

BELLSOUTH TELECOMMUNICATIONS,  
INC.

Winstar Wireless, Inc.

On File  
Authorized Signature

On File  
Authorized Signature

Jerry Hendrix  
Print or Type Name

Russell C. Merbeth  
Print or Type Name

Senior Director  
Title

VP, Legal/Regulatory  
Title

May 9, 2000  
Date

\_\_\_\_\_



**MICROWAVE COLLOCATION RATE ELEMENT DEFINITIONS AND CONDITIONS**

**Non-recurring charges - Relating to Microwave Roof Equipment**

1) **Microwave Preparation Fees**

Architectural Plan and Structural Review  
Exterior and Related Interior Building Modification Work  
General Contractor Supervision  
Special Security Construction

2) **Coring/Cable Support Structure**

Electrical and Building modification work for coring  
Weather Proofing  
Cable Support Structure

3) **Roof Preparation (if applicable)**

Engineering Study (To develop roof preparation alternatives/costs)

4) **Escort - charge for access to roof**

Charge for access to Roof

**Recurring charges - Relating to Microwave Roof Equipment**

1) **Roof Space Lease Charge**

Monthly rate for leasing rooftop or other suitable exterior space on BellSouth CO on a per square foot basis.

## **MICROWAVE COLLOCATION RATES**

### **Non-recurring charges**

- |  |                        |
|--|------------------------|
| 1) Microwave Prep fee                                | [ICB FOR EACH CO]      |
| 2) Coring/Cable Support Structure                    | [ICB FOR EACH CO]      |
| 3) Roof Preparation/Exterior Cable Support Structure | [ICB FOR EACH CO]      |
| 4) Microwave Installation                            | [ICB FOR EACH CO]      |
| 5) Additional Charges*                               | [BASED ON ICB]         |
| 6) Subsequent Application Fee                        | \$3,160.00 per request |

\* Additional costs for environmental conditioning (if applicable) will be developed and charged as an ICB. These charges include but are not limited to (to the extent applicable): exterior cable support structure; coring; and roof reinforcement. These costs along with the building Modification costs will be pro-rated back to existing customers when new applicants are put into service.

### **Monthly recurring rates**

- |                              |                   |
|------------------------------|-------------------|
| 1) Roof space (per sq. ft.)* | \$ 5.50 (interim) |
|------------------------------|-------------------|

\* A minimum of 12 square feet is required per microwave arrangement. The final rate will be no less than \$4.95 and no greater than \$6.05

**MICROWAVE COLLOCATION APPLICATION AGREEMENT**

1. Name/Address of Central Office (s)
2. Proposed Rooftop/Exterior Space Location of Microwave Equipment
3. Description of Microwave Equipment
4. Other

**AMENDMENT  
TO THE  
AGREEMENT BETWEEN  
WINSTAR WIRELESS, INC.  
AND BELL SOUTH TELECOMMUNICATIONS, INC.  
DATED MAY 9, 2000**

Pursuant to this Agreement, (the "Amendment"), Winstar Wireless, Inc. ("Winstar"), and BellSouth Telecommunications, Inc. ("BellSouth"), hereinafter referred to collectively as the "Parties," hereby agree to amend that certain Microwave Collocation Agreement between the Parties dated May 9, 2000 ("Agreement").

WHEREAS, BellSouth and Winstar entered into a Microwave Collocation Agreement on May 9, 2000 and;

NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. The Agreement is hereby amended to delete in its entirety Section 7, Antenna Modifications, and replace it with the following language:

Winstar must submit an application with a fee before adding additional equipment to the microwave collocation space or to move equipment outside of designated space. Winstar may not construct improvements or make Major Alterations to its rooftop space or microwave transmission facilities without prior written approval from BellSouth, which will not be unreasonably withheld. BellSouth shall respond to any single request (application) within thirty (30) business days. "Major Alterations" shall include but not be limited to: (i) additional construction by Winstar of support equipment within its rooftop space, (ii) any modification to the rooftop space. "Major Alterations" shall not include (i) replacement of mounted equipment with like-sized and weight or smaller mounted equipment or similar functionality, (ii) routine repairs and maintenance to such microwave transmission facilities. Additional equipment or movement of existing equipment will require a new application and application fee. Anything outside of normal maintenance may require a subsequent application fee as indicated in Exhibit B of the Collocation Agreement.

2. Section 3, Responsibility Of The Parties, is amended to add paragraph H as follows:

H. Winstar shall only use the microwave dishes located on the BellSouth roof to receive aggregated microwave signals from a Winstar hub. Additionally, Winstar may not connect Indoor Units ("IDU") within the collocation space through cross-connect facilities in lieu of interconnecting to BellSouth's network or accessing BellSouth's unbundled network elements.

3. All of the other provisions of the Agreement, dated May 9, 2000, shall remain in full force and effect.
4. Either or both of the Parties is authorized to submit this Amendment to the respective state regulatory authorities for approval subject to Section 252(e) of the Federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

**Winstar Wireless, Inc.**

**BellSouth Telecommunications, Inc.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Jerry Hendrix

Title: \_\_\_\_\_

Title: Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT NO. AWG -9**  
**Generic UNE Order**  
**Docket No. 00-00544**

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**April 3, 2002**

**IN RE:**

**GENERIC DOCKET TO ESTABLISH UNE PRICES )  
FOR LINE SHARING PER FCC 99-355, AND RISER )  
CABLE AND TERMINATING WIRE AS ORDERED )  
IN TRA DOCKET 98-00123 )**

**DOCKET NO.  
00-00544**

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**FIRST INITIAL ORDER**

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This docket came before the Tennessee Regulatory Authority ("Authority") at a regularly scheduled Authority Conference held on November 20, 2001 for resolution of the issues presented by the parties in the Hearing held from November 27, 2000 through December 1, 2000.

### **I. Procedural History**

On May 9, 2000, during a regularly scheduled Authority Conference, the Directors voted unanimously to open a generic docket for the purpose of establishing permanent Unbundled Network Element ("UNE") prices for line sharing per the Federal Communications Commission's ("FCC") *Line Sharing Order*<sup>1</sup> and permanent prices for riser cable and Unbundled Network Terminating Wire ("UNTW") per the Authority's Order in Docket No. 98-00123.<sup>2</sup> The Authority also requested that all interested parties file cost studies, proposed permanent prices, and proposed terms and conditions for the line sharing, riser cable, and UNTW elements by June 30, 2000. The Authority further directed the parties that the cost studies, prices, terms, and conditions were to be consistent with the cost methodology adopted by the Authority in Docket No. 97-01262, the Permanent Prices Docket,<sup>3</sup> and the FCC's line sharing requirements. In addition, the Authority instructed all interested parties to file reply comments on the proposals by July 15, 2000. At a regularly scheduled Authority Conference on July 11, 2000, the Directors voted unanimously to appoint Director H. Lynn Greer, Jr. as the Pre-Hearing Officer.

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<sup>1</sup> See *In re: Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, FCC 99-355, CC Docket No. 98-147, 14 FCC Rcd. 20912 (Dec. 9, 1999) (hereinafter *Line Sharing Order*).

<sup>2</sup> See *In re: Petition of NEXTLINK Tennessee, L.L.C. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*, Docket No. 98-00123, *Final Order of Arbitration*, p. 7 (Jun. 25, 1999).

<sup>3</sup> See *In re: Petition of BellSouth Telecommunications, Inc. to Convene a Contested Case to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements*, Docket No. 97-01262 (hereinafter *Permanent Prices*).

Numerous parties sought to intervene in this docket. Time Warner Telecom of the Mid-South, L.P. ("Time Warner") filed a petition to intervene on June 27, 2000. Petitions to intervene were also filed on June 30, 2000 by United Telephone-Southeast, Inc. and Sprint Communications Company, L.P. (collectively "Sprint/United"),<sup>4</sup> AT&T Communications of the South Central States, Inc. ("AT&T"), TCG MidSouth, Inc. ("TCG"), Telephone Data System Companies ("TDS"),<sup>5</sup> Rhythm Links, Inc., MCI Telecommunications, Inc. d/b/a MCI WorldCom ("MCI"), BellSouth Telecommunications, Inc. ("BellSouth"), NEXTLINK Tennessee, Inc. ("NEXTLINK"), BlueStar Networks, Inc. ("BlueStar"), and DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad"). Broadslate Networks of Tennessee, Inc. ("Broadslate") and Network Telephone Corporation ("Network Telephone") filed petitions to intervene on July 14, 2000.<sup>6</sup>

BellSouth and Sprint/United filed cost studies on June 30, 2000.<sup>7</sup> BellSouth's cost study contained rates, terms, and conditions for all the elements requested by the Authority. Sprint/United's cost study did not include rates, terms, and conditions for the riser cable and UNTW elements nor did it include costs for the local loop and the splitter. On August 18, 2000, Sprint/United filed revised cost studies and proposed rates to reflect changes in Operational Support Systems ("OSS") costs as well as costs and rates for the provisioning of a splitter in those instances where the competing local exchange carrier ("CLEC") purchases the splitter, the

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<sup>4</sup> United is an incumbent local exchange carrier in Tennessee and Sprint is a competing local exchange carrier in Tennessee. Because Sprint and United participated in this proceeding as if they were one party, the term "Sprint/United" is used in this Order to identify these entities.

<sup>5</sup> TDS includes Tennessee Telephone Co., Humphreys County Telephone Co., Concord Telephone Exchange, Inc., and Tellico Telephone Co., Inc.

<sup>6</sup> Network Telephone filed a *Notice of Withdrawal* on September 26, 2000.

<sup>7</sup> BellSouth did not file the proprietary portions of its cost study on June 30, 2000 because the parties had not entered into a proprietary agreement. The parties filed a proposed protective order on July 20, 2000, and upon entry of the proposed order by the Pre-Hearing Officer, BellSouth filed the remaining portions of its cost study on July 21, 2000. Nevertheless, the date on the proprietary portions of BellSouth's cost study is June 30, 2000.

incumbent local exchange carrier ("ILEC") maintains the splitter, and the splitter is located in the ILEC's common space.

On July 11, 2000, BlueStar and Covad filed a *Motion to Expand Docket No. 00-00544 to Set Rates for Unbundled Copper Loops, Loop Conditioning and Access to Loop Make-Up Information*. The motion to expand requested that the Pre-Hearing Officer set both permanent and interim rates. Also on July 11th, BlueStar, Covad, AT&T, TCG, and NEXTLINK filed a *Motion to Establish a Procedural Schedule and Motion to Extend the Deadline for Filing Reply Comments*. Broadslate and Network Telephone filed comments on July 14, 2000, in support of the motion to expand.

On August 10, 2000, the Pre-Hearing Officer issued an Order reflecting the rulings rendered during a Pre-Hearing Conference held on August 3, 2000. In the Order, the Pre-Hearing Officer granted the interventions, ordered that interim rates be set, and established a procedural schedule to simplify the filing of proposed interim rates and responses thereto.<sup>8</sup> In addition, the Pre-Hearing Officer granted BlueStar and Covad's motion to expand the docket to include the setting of rates for unbundled copper loops ("UCLs"), loop conditioning, and access to Loop Makeup ("LMU") information as well as BellSouth's oral motion to expand the docket to include setting rates for the *UNE Remand Order*<sup>9</sup> elements, but limited such expansion to those elements that are the subject of a pending arbitration.

On August 14, 2000, Vectris Telecom, Inc. ("Vectris") filed a petition to intervene. On August 23, 2000, the Pre-Hearing Officer transmitted a letter to all parties requesting that any

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<sup>8</sup> The Order stated that the Pre-Hearing Officer would set the interim rates. During the September 26, 2000 Authority Conference, the Pre-Hearing Officer corrected the August 10th Order by announcing that the Order should have stated that the Authority would set the interim rates. See Transcript of Proceedings, Sept. 26, 2000, p. 39 (Authority Conference).

<sup>9</sup> See *In re: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, FCC 99-238, CC Docket No. 96-98, 15 FCC Rcd. 3696 (Nov. 5, 1999) (Third Report and Order and Fourth Further Notice of Proposed Rulemaking) (hereinafter *UNE Remand Order*).

comments on the petition to intervene be filed no later than August 28, 2000. None of the parties filed comments. The Pre-Hearing Officer entered an order granting Vectris' petition to intervene on September 1, 2000.<sup>10</sup>

On August 18, 2000, Sprint/United filed its revised line sharing cost studies and interim rate proposals, and BellSouth, the Data Coalition,<sup>11</sup> and MCI and Broadslate<sup>12</sup> filed interim rate proposals. In addition, NEXTLINK and Time Warner filed joint comments adopting the comments and proposed rates filed by the Data Coalition for UCLs, loop conditioning, access to LMU information, line sharing, riser cable, and UNTW and MCI's proposed interim rates for high capacity lines.

On August 25, 2000, BellSouth, the Data Coalition, MCI, NEXTLINK, and Time Warner filed comments on the proposed interim rates. On September 5, 2000, BellSouth filed its supplemental reply. The Data Coalition filed its surrebuttal comments on September 6, 2000, and BellSouth filed its surreply on September 12, 2000.

The Authority issued data requests related to the *UNE Remand Order* elements on September 8, 2000. Sprint/United, the Data Coalition, and BellSouth each filed a response to the data requests on September 15, 2000. AT&T filed its response on September 22, 2000.

The Authority first considered interim rates at a regularly scheduled Authority Conference on September 26, 2000. During that Conference, the Directors unanimously adopted interim rates for numerous elements, but declined to adopt interim rates at that time for riser cable, UNTW, and *UNE Remand Order* elements.<sup>13</sup> In addition, the Authority approved and

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<sup>10</sup> On November 6, 2000, Vectris filed *Vectris Communications, Inc.'s Notice of Withdrawal*.

<sup>11</sup> The Data Coalition includes BlueStar, Covad, Broadslate, and Vectris.

<sup>12</sup> Broadslate joined in both the Data Coalition's and MCI's filings. In the latter, MCI and Broadslate supported the Data Coalition's rates and proposed additional rates for elements the Data Coalition's filing did not address.

<sup>13</sup> See Transcript of Proceedings, Sept. 26, 2000, pp. 40-45 (Authority Conference).

modified the terms and conditions for line sharing, riser cable, and UNTW proposed by BellSouth. The Authority ordered BellSouth to amend its terms and conditions to allow CLECs to purchase and provide their own splitter, consistent with the FCC's *Line Sharing Order*.<sup>14</sup> Lastly, the Authority ordered BellSouth to amend its cost studies by October 2, 2000 as follows: 1) amend OSS cost recovery to include in its line sharing rates those reasonable incremental costs of OSS modifications caused by the obligation to provide line sharing as a UNE; 2) amend cross connects so that the rates reflect clearly whether the splitter is located within BellSouth's Main Distributing Frame; and 3) amend line sharing rates to reflect whether a CLEC provides a splitter in its own cage or in a common area of a central office and whether the CLEC is self-provisioned within its collocation space.<sup>15</sup>

Also on September 26, 2000, the Authority approved Sprint/United's terms and conditions for line sharing and directed Sprint/United to propose terms and conditions for riser cable and UNTW. Specifically, the Authority held that Sprint/United's terms and conditions should set out specific rates for riser cable and UNTW as well as standardizing the ordering and provisioning process for all potential users of those elements.<sup>16</sup>

The Authority issued data requests related to BellSouth's and the Data Coalition's proposed interim rates for the riser cable and UNTW elements on September 29, 2000. The request asked each party to explain the similarities and differences among the elements proposed by BellSouth and the elements proposed by the Data Coalition.

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<sup>14</sup> See *Order Adopting Interim Rates*, p. 5 (Nov. 7, 2000).

<sup>15</sup> See *id.* at 7.

<sup>16</sup> See *id.* at 5.

BellSouth filed its *Unbundled Network Element Cost Studies* and Sprint/United filed its *Revised Line Sharing Cost Studies and Interim Rate Proposals* on October 2, 2000. Sprint/United did not propose any rates for the riser cable or UNTW elements.

On October 11, 2000, BellSouth and the Data Coalition responded to the Authority's September 29, 2000 data requests. Based on the filings and responses to data requests, during the November 7, 2000 Authority Conference, the Authority unanimously adopted the interim rates proposed by BellSouth for UNTW and for the riser cable elements subject to true-up upon the setting of permanent rates.<sup>17</sup>

On October 20, 2000, BellSouth filed supplemental cost studies for additional UNEs that were not included in the October 2, 2000 filing. On November 13, 2000, BellSouth filed corrections to the nonrecurring costs for certain elements, xDSL,<sup>18</sup> loop modification and line sharing.

The Authority held a Hearing in this docket from November 27, 2000 through December 1, 2000. The post-hearing briefs were due on January 19, 2001, but on January 11, 2001, the parties filed an agreed motion for continuance requesting until January 23, 2001 to file the briefs. Sprint/United, BellSouth, MCI, the Data Coalition, and AT&T filed their post-hearing briefs on January 23, 2001.

On January 29, 2001, the Authority asked the parties to file supplemental briefs on the impact to this proceeding of the FCC's *Line Splitting Order*<sup>19</sup> and the FCC's *SBC Kansas-*

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<sup>17</sup> The parties have agreed that interim rates are subject to a true-up once permanent rates are set. See Transcript of Proceedings, Aug. 3, 2000, pp. 37-63 (Pre-Hearing Conference).

<sup>18</sup> "DSL" is an acronym for Digital Subscriber Line. The "x" represent a general service that utilizes a portion of the bandwidth of copper loops that is not used for plain old telephone service. Specific forms of DSL include Asymmetric ("ADSL"), High-Bit Rate ("HDSL"), Symmetric ("SDSL"), and Very High Bit Rate ("VDSL").

<sup>19</sup> See *In re: Deployment of Wireline Services Offering Advanced Telecommunications Capability*, FCC 01-26, CC Docket No. 98-147, 16 FCC Rcd. 2101 (Jan. 19, 2001) (Third Report and Order on Reconsideration) (hereinafter *Line Splitting Order*).

*Oklahoma Order.*<sup>20</sup> Only BellSouth and the Data Coalition filed supplemental briefs on February 5, 2001. BellSouth also filed a supplemental reply brief in response to the Data Coalition's supplemental brief.

On February 9, 2001, BellSouth and the Data Coalition requested approval of a settlement agreement as to BellSouth's interim, monthly, recurring rate for Line Sharing Splitter-Per Line Activation in the Central Office. On March 20, 2001, during a regularly scheduled Authority Conference, the Directors unanimously approved a new interim rate as agreed to by the parties. This new interim rate is subject to true-up once the Authority establishes permanent rates.<sup>21</sup>

On April 16, 2001, Sprint/United filed additional cost studies that included proposed terms and conditions for riser cable and UNTW. On June 14, 2001, Staff sent a data request asking BellSouth to file a single complete line sharing cost study containing the relevant portions of the cost studies filed with the Authority on October 2, October 20, and November 13, 2000. BellSouth filed the requested cost studies on July 6, 2001. On July 23, 26 and August 6, 2001, the Authority sent data requests to AT&T, BellSouth, and Sprint/United. The Authority received responses to the data requests on August 6, 8, 15, and 22, 2001 and on September 10, 2001.

On August 8, 2001, BellSouth filed the affidavit of D. Daonne Caldwell and supplemental cost studies for the following elements: Engineering Information, Unbundled

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<sup>20</sup> See *In re: Joint Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, FCC 01-29, CC Docket No. 00-217, 16 FCC Rcd. 6237 (Jan. 22, 2001).

<sup>21</sup> See *Order Approving Agreed Interim, Monthly, Recurring Rates for Element J.4.3*, p. 2 (Apr. 23, 2001).

Copper Loop-Non-Designed, Loop Testing, Physical Collocation Space Availability Report, and Adjacent Collocation. BellSouth claims that these elements fall within the scope of this docket.<sup>22</sup>

## **II. Findings and Conclusions**

### **1. What terms and conditions should the Authority adopt for ILECs' provisioning of the Unbundled Network Elements ("UNEs") included in this docket?**

The terms and conditions proposed by Sprint/United and BellSouth in this docket for line sharing, riser cable and UNTW are not sufficient because they do not address all the issues that may emerge as a result of the development of advanced services in Tennessee. There is no prejudice to either CLECs or ILECs in Tennessee if the Directors do not adopt these proposed terms and conditions at this time, because the carriers may use interconnection agreements and the protections associated with those agreements, such as pick and choose and arbitration. Further, the parties may continue to use the interim terms and conditions adopted by the Authority until the Authority establishes permanent terms and conditions. Therefore, the Directors unanimously voted to address the terms and conditions for line sharing within Docket No. 01-00526, *In re: Generic Docket to Establish Generally Available Terms and Conditions for Interconnection*.

### **2. What cost studies should the Authority approve for Tennessee? Should the Authority approve only one cost study and select between Sprint/United's and BellSouth's cost studies?**

BellSouth maintained throughout this proceeding that its cost studies comply with the Authority's earlier order in this docket requiring BellSouth and Sprint/United to use the methodology ordered in the Permanent Prices Docket and the FCC's costing methodology.<sup>23</sup>

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<sup>22</sup> The analysis of these elements is not included in this Order because the parties to this proceeding have not had an opportunity to reply to this filing, to analyze the proposed rates and their inputs, or to cross-examine BellSouth's witness, D. Daonne Caldwell.

<sup>23</sup> See *Order Opening Generic Docket and Appointing a Hearing Officer* (Aug. 15, 2000).



Meanwhile, Sprint/United requests that the Authority allow Sprint/United to resubmit its cost studies so that it incorporates the methods and assumptions found in BellSouth's cost study.<sup>24</sup> If the methods and assumptions found in BellSouth's cost study are wrong, as Sprint/United contends, it is not clear why Sprint/United would request to incorporate them in its cost study. However, if the Authority determines that the assumptions underlying BellSouth's cost studies are inappropriate compared to Sprint/United's assumptions, then the Authority is obligated to achieve regulatory parity between the two substantially similar service providers by ordering the use of Sprint/United's assumptions. For these reasons, the Authority unanimously voted to order that the two cost studies will continue to be considered in this proceeding, BellSouth's cost studies for BellSouth's territory in Tennessee and Sprint/United's cost studies for Sprint/United's territory in Tennessee, and that modification will be ordered where necessary.

3. **Are the cost studies presented by Sprint/United and BellSouth consistent with the cost methodology adopted by the Authority in Docket No. 97-01262, the Permanent Prices Docket, and the FCC's line sharing requirements?**

The FCC promulgated rules in its *First Report and Order* in August 1996, which defined the forward-looking economic cost as the sum of the Total Element Long-Run Incremental Cost ("TELRIC") of the element and a reasonable allocation of forward-looking common costs.<sup>25</sup> The TELRIC of a UNE is defined by Section 51.505(b) of the FCC Rules as: "[T]he forward-looking cost over the long run of the total quantity of the facilities and functions that are directly attributable to, or reasonably identifiable as incremental to, such element, calculated taking as a given the incumbent LEC's provision of other elements."<sup>26</sup> Further, Section 51.505(b)(1)

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<sup>24</sup> See *Sprint's Post-Hearing Brief*, p. 13 (Jan. 23, 2001).

<sup>25</sup> See *In re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, FCC 96-325, CC Docket No. 96-98, 11 FCC Rcd. 15,499, para. 672 (Aug. 8, 1996) (First Report and Order) (hereinafter *First Report and Order*).

<sup>26</sup> 47 CFR § 51.505(b).

explains how to measure the TELRIC of an element using an efficient network configuration. This Section provides: "The total element long-run incremental cost of an element should be measured based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration, given the existing location of the incumbent LEC's wire centers."<sup>27</sup>

In the *Line Sharing Order*, the FCC established guidelines that either follow directly from the TELRIC methodology set forth in the *First Report and Order* to govern interconnection and UNE pricing or, if not a direct outgrowth of those principles, are consistent with them in the context of the line sharing UNE.<sup>28</sup> On July 18, 2000, the Eighth Circuit vacated Rule 51.505(b)(1), but stayed its decision on September 22, 2000 pending appeal to the U.S. Supreme Court.<sup>29</sup> Therefore, the TELRIC pricing methodology is an appropriate methodology to use in this proceeding.

All CLECs in this proceeding agree that TELRIC is the appropriate methodology to use in pricing line sharing UNEs and other UNEs considered in this docket.<sup>30</sup> In addition, the ILECs claim to have utilized the TELRIC methodology.<sup>31</sup> However, the CLECs and Sprint/United argue that BellSouth failed to employ reasonable assumptions in calculating line sharing costs.<sup>32</sup>

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<sup>27</sup> *Id.* § 51.505(b)(1).

<sup>28</sup> *Line Sharing Order* at para. 131.

<sup>29</sup> *See Iowa Utils. Bd. v. FCC*, Docket No. 96-3321 (8<sup>th</sup> Cir. Sept. 22, 2001) (order granting FCC's motion for partial stay of mandate).

<sup>30</sup> *See, e.g., Post-Hearing Brief of the Data Coalition*, pp. 1-2 (Jan. 23, 2001); *Post-Hearing Brief of MCI WorldCom*, p. 18 (Jan. 23, 2001); *AT&T's Post-Hearing Brief*, p. 1 (Jan. 23, 2001) (generally supporting MCI's and the Data Coalition's positions).

<sup>31</sup> *See Daniel R. Gordon, Pre-Filed Direct Testimony*, p. 17 (Nov. 13, 2000); *D. Daonne Caldwell, Pre-Filed Direct Testimony*, pp. 7-8 (Nov. 13, 2000).

<sup>32</sup> *See, e.g., Post-Hearing Brief of the Data Coalition*, p. 12 (Jan. 23, 2001) (arguing that BellSouth's assumption that all xDSL loops require dispatch is untrue and unsupported); *Sprint's Post-Hearing Brief*, p. 9 (Jan. 23, 2001) (arguing that BellSouth's assumption that it will unload 10 pairs is undocumented, contradicts BellSouth's statements on its website, and ignores on-going upgrades).

Although BellSouth followed the Authority's directives concerning the methodology utilized in its cost studies, the problems with BellSouth's assumptions are mainly due to a lack of supporting documentation. BellSouth failed to explain most of the assumptions used in its cost studies. During the Hearing, BellSouth's witnesses stated that BellSouth did not provide detailed support for the assumptions because BellSouth did not consider such explanation to be necessary. For example, when asked where one could find detailed descriptions of the process BellSouth used to provision an xDSL loop, BellSouth witness, D. Daonne Caldwell, answered: "The detail process is not in there. But, there are assumptions in the narrative associated with the XDSL loop. What you would need to do is to look at the work centers and in the work times that are in the actual worksheet itself."<sup>33</sup>

When the Authority opened this docket, the Authority directed that the cost studies, terms, and conditions were to be consistent with the cost methodology adopted by the Authority in the Permanent Prices Docket and the FCC's line sharing requirements. The Authority also ordered that the cost studies must be documented and supported by sufficient evidence. BellSouth did not fully comply with this requirement, and in fact, during a status conference, the Pre-Hearing Officer commented: "[M]y concern at this point is that we believe there's a black box there that needs to be opened up. And I think that as we go through this process, we're going to have to have a lot more information than we have at this point."<sup>34</sup>

Sprint/United maintains in its June 30, 2000 filing that "[c]onsistent with the FCC line sharing order, [United] utilized the TELRIC methodology to calculate the line sharing costs."<sup>35</sup> Sprint/United's cost study is consistent with the pricing methodology adopted by the Authority

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<sup>33</sup> Transcript of Proceedings, Nov. 27, 2000, v. I-C, p. 118 (Hearing).

<sup>34</sup> *Id.* Aug. 3, 2000, p. 32 (Status Conference).

<sup>35</sup> *Petition of United Telephone-Southeast, Inc. for Leave to Intervene*, cover letter (Jun. 30, 2000).

and FCC's line sharing requirements in that it uses a forward-looking, least-cost, most-efficient network configuration. Sprint/United did not have to include some of the adjustments ordered by the Authority in the Permanent Prices Docket because they were BellSouth specific adjustments. Sprint/United provided sufficient narratives and exhibits to explain its approach. Clearly, Sprint/United's cost studies utilized a TELRIC methodology.

Based on the foregoing, the Authority found that, with the exception of the methodology used by BellSouth in calculating the rates for 2-wire and 4-wire copper loops<sup>36</sup> and the costs for physical collocation elements,<sup>37</sup> the methodologies employed in BellSouth's and Sprint/United's cost studies are consistent with the cost methodology adopted by the Authority in the Permanent Prices Docket and the FCC's line sharing requirements. Therefore, the Authority unanimously voted to use the proposed models as the starting point and to require BellSouth and Sprint/United to modify their cost studies as ordered by the Authority in this proceeding.

**4. Should the Authority address DS3, OC3, OC12, OC48, STS-1 loops, local channels, dedicated and shared interoffice facilities, as well as operator services and directory assistance ("OS/DA") in this proceeding?**

Sprint/United's cost study did not include the disputed UNEs because Sprint/United does not offer those UNEs and no CLEC has requested them. BellSouth proposed rates for dark fiber, OC3, OC12, OC48, STS-1, and DS3, but presented no supporting documentation sufficient to allow close scrutiny of the rates for these elements. The CLECs contested most of these rates, claiming that the rates proposed in Tennessee are not only far higher than the rates BellSouth proposed in other states, but are also higher than the rates offered by other ILECs. In addition, some DS1 and DS3 loops were included in the Permanent Prices Docket, while other loops, such as DS3, OC3, OC12, OC48, and dark fiber, are not involved in line sharing and are not the

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<sup>36</sup> See *infra* Issue 6.

<sup>37</sup> See *infra* Issue 23.

subject of a pending arbitration in Tennessee. Moreover, as some CLECs argue, even if these elements were included in this proceeding, more time and sufficient supporting documentation are required in order to analyze the proposed rates.

With respect to OS/DA, in the *Order Denying [BellSouth's] Tariff No. 01-00205 and Opening Docket No. 01-00526*, the Authority stated: "Before BellSouth may be relieved of its obligations under FCC Rule 319(f),<sup>38</sup> the Authority must find that BellSouth's routing solution is functionally adequate and delineate the service areas where the compliant routing solution is available to competing carriers."<sup>39</sup> The Authority has not made such a finding in any docket."<sup>40</sup>

Based on the foregoing, the Directors unanimously voted to exclude DS3, OC3, OC12, OC48, and STS-1 loops and local channels and dedicated and shared interoffice facilities at DS3, OC3, OC12, OC48, STS-1 transmission rates, and related UNE combinations from this docket at this time. These UNEs will be addressed in Docket No. 01-00339, *In re: Generic Docket to Consider Technology Advances and Geographic Deaveraging*. The Directors also unanimously voted to adopt the rates proposed by BellSouth for these elements as interim rates subject to true-up upon the establishment of permanent rates for these elements. Lastly, the Directors unanimously voted to order BellSouth to continue to make OS/DA available as a UNE in Tennessee until the Authority makes a final finding in any docket that BellSouth's routing

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<sup>38</sup> 47 C.F.R. § 51.319(f) provides:

Operator services and directory assistance. An incumbent LEC shall provide nondiscriminatory access in accordance with § 51.311 and section 251(c)(3) of the Act to operator services and directory assistance on an unbundled basis to any requesting telecommunications carrier for the provision of a telecommunications service only where the incumbent LEC does not provide the requesting telecommunications carrier with customized routing or a compatible signaling protocol. Operator services are any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call. Directory assistance is a service that allows subscribers to retrieve telephone numbers of other subscribers.

<sup>39</sup> *UNE Remand Order* at para. 463.

<sup>40</sup> *Permanent Prices, Order Denying Tariff No. 01-00205 and Opening Docket No. 01-00526*, p. 6 (Jun. 21, 2001) (footnotes 37 and 38 in original).

solution is functionally adequate and delineates the service areas where the compliant routing solution is available to competing carriers.

**5. Work times and work groups:**

- a. **What are the appropriate and reasonable tasks and task times for provisioning an xDSL loop?**
- b. **Should the following BellSouth intermediary work groups be eliminated: Address and Facility Inventory Group, Circuit Provisioning Group, Complex Resale Service Group, Outside Plant Engineering, Local Carrier Service Center, Unbundled Network Element Center, Service Advocacy Center, Work Management Center?**

Before setting rates, the Authority must determine the necessary tasks for provisioning line sharing and the appropriate amounts of time to perform those tasks. BellSouth and the CLECs in this docket offered estimated work times. There are significant differences, however, in the time estimates presented by the parties for all the tasks necessary to provide the line sharing UNE. Nonetheless, the Authority cannot reject in whole the work times and costs proposed by BellSouth and Sprint/United because to do so would result in setting many of the costs in this docket at zero. Such a result would not be in the public interest, as it would not provide BellSouth and Sprint/United proper compensation for the use of their networks.

Using market-based work times paid to contractors can be proper for cost studies. Sprint/United proposed work times based on actual times paid to its contractors for loop conditioning. Sprint/United, however, also used estimated of work times for many tasks and failed to specify how the figures were calculated for some of the tasks. In addition, the record reveals that the work times proposed by Sprint/United for splitter engineering and installation tasks are inflated.<sup>41</sup> The other parties did not offer alternative proposals for Sprint/United's work times.

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<sup>41</sup> See *Line Sharing Cost Study United Telephone-Southeast, Inc.*, p. 19 (Aug. 18, 2000) (Proprietary Filing).

BellSouth also failed to adequately support its proposed work times. BellSouth's proposed work times are "estimates from the subject matter experts on the amount of time that's required to perform the activity."<sup>42</sup> BellSouth chose to use estimated work times even though it has recorded information on direct salaries, wages, and total classified and unclassified productive hours.<sup>43</sup> Indeed, the same source for labor rates can be used to produce actual work times because labor rates are obtained by dividing actual costs by actual classified productive hours for plant and engineering work groups and total productive hours for cost groups.

Moreover, as to BellSouth's proposed work times, it is unclear whether costs are being double recovered through monthly recurring charges and nonrecurring charges. The Authority lacks the ability to verify whether the subject matter experts meticulously reported relevant data, and BellSouth's witnesses provided little assurance that such occurred. In fact, in some instances it appears BellSouth counted work tasks many times without a clear explanation.<sup>44</sup> On the other hand, many of the work times proposed by CLECs are too low, as they fail to cover all reasonably required provisioning steps.<sup>45</sup>

BellSouth's cost studies demonstrate that only a manual service inquiry is used for most UNEs and that many special services work groups are involved.<sup>46</sup> This methodology tends to inflate work times due to the numerous intermediary work groups. It also tends to inflate costs because it uses too many manual service inquiries instead of the cheaper electronic service inquiries. BellSouth witness, William H. Greer, admitted that "in this cost study there isn't one

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<sup>42</sup> Transcript of Proceedings, Nov. 27, 2000, v. I-B, p. 91 (Hearing).

<sup>43</sup> *BellSouth Telecommunications, Inc. Unbundled Network Element Cost Studies*, Section 4, pp. 31-34 (Oct. 2, 2000) (Public Version).

<sup>44</sup> See D. Daonne Caldwell, Pre-Filed Direct Testimony, Exh. DDC-1, xDSL Capable and Copper Loops, Inputs\_Connect & Test (file name TN-xdsl.xls), p. 000162 (Nov. 13, 2000) (listing "Performs frame continuity and due date coordination and testing" three times).

<sup>45</sup> See, e.g., Dean R. Fassett, Pre-Filed Rebuttal Testimony, pp. 26-43, 70-72 (Nov. 20, 2000).

<sup>46</sup> See D. Daonne Caldwell, Pre-Filed Direct Testimony, Exh. DDC-1, xDSL Capable and Copper Loops, Inputs\_Connect & Test (file name TN-xdsl.xls), pp. 000119-65 (Nov. 13, 2000) (provisioning xDSL loops).

iota of data from Tennessee's actual network that BellSouth relies on in this proceeding."<sup>47</sup>

BellSouth could have used its actual network in Tennessee to derive the inputs for its cost study.

For these reasons, the Directors unanimously voted to:

1. Accept BellSouth's intermediary work groups as necessary at this time, although the Authority expects that manual activities will continue to be replaced by electronic activities as they become technically feasible;
  2. Order BellSouth to substitute the work times, attached hereto as Exhibit 1, in its cost studies and to file adjusted cost studies within 30 days of the entry of the Authority's written order; and
  3. Order BellSouth and Sprint/United to provide supporting documentation for any work time that is not listed in Exhibit 1 or that is not supported by documentation by a date to be determined by the Pre-Hearing Officer; and
  4. Order BellSouth and Sprint/United to use the proposed work times as interim measures pending further orders of the Authority.
6. **Loops capable of provisioning xDSL services:**
- a. **What types of loops should the Authority require ILECs to make available to CLECs for the provisioning of xDSL services?**
  - b. **Should the Authority require ILECs to mark loops qualified and ordered by CLECs in order to prevent those copper loops from being rolled to fiber?**<sup>48</sup>

The Authority confronts this issue in light of the following statement by the FCC:

Unbundling basic loops, with their full capacity preserved, allows competitors to provide xDSL services. This in turn will foster investment, innovation, and competition in the local telecommunications marketplace. Without access to these loops, competitors would be at a significant disadvantage, and the incumbent LEC, rather than the marketplace, would dictate the pace of the deployment of advanced services.<sup>49</sup>

<sup>47</sup> Transcript of Proceedings, Dec. 1, 2000, v. V-C, p. 203 (Hearing).

<sup>48</sup> Sprint/United did not address this issue as a result of a ruling of the Pre-Hearing Officer. During a Pre-Hearing Conference on August 3, 2000, the Pre-Hearing Officer granted a motion to expand this docket to include rates for the UCL element. *See Order of Pre-Hearing Officer Granting Petitions for Leave to Intervene, Motions to Expand the Docket, Motion for Interim Relief, Motion to Establish a Procedural Schedule, and Motion to Extend Deadline to File Reply Comments*, p. 2 (Aug. 10, 2000). The Pre-Hearing Officer allowed Sprint/United to continue to participate in the docket without filing additional cost studies regarding the UCL after learning that Sprint/United does not offer a product like the UCL and has not received requests for UCLs or its equivalent. *See Transcript of Proceedings*, Aug. 3, 2000, pp. 50- 53, 64 (Pre-Hearing Conference).

<sup>49</sup> *UNE Remand Order* at para. 190.



BellSouth offers a variety of xDSL loops that can be divided into the following groups: High Bit-Rate Digital Subscriber Line ("HDSL") Compatible Loop, Asymmetrical Digital Subscriber Line ("ADSL") Compatible Loop, Unbundled Copper Loop ("UCL") short and long, Integrated Services Digital Network ("ISDN") capable loop, and Universal Digital Channel ("UDC").<sup>50</sup> CLECs argue that they do not require loops specifically "designed" to provide xDSL services and, therefore, claim that all engineering and test point installation costs are unnecessary and unwarranted.<sup>51</sup> Accordingly, the CLECs contend that BellSouth should modify its cost studies by offering "non-designed" loops in addition to "designed" loops so that CLECs may design loops independently rather than purchase the loops designed by BellSouth.<sup>52</sup>

The distinction between a copper loop used by BellSouth to provide voice grade service level 1 and a UCL is not always obvious. According to BellSouth, UCLs "are commonly referred to as 'dry copper' loops because they have no intervening equipment such as load coils, bridged taps, repeaters, etc., between the end user premises and the Serving Wire Center."<sup>53</sup> Thus, by definition, a UCL does not require loop conditioning. However, it will always be necessary for the CLECs to purchase LMU information in order to find out whether the loop has any impediments to xDSL services. Once load coils and bridged taps are removed from a loop, that loop will be classified as a UCL. Thus, an SL1 becomes a UCL once bridged taps, load coils, and repeaters are removed from the loop or once it is determined through obtaining LMU information that such disturbers do not exist.

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<sup>50</sup> *BellSouth Telecommunications, Inc. Unbundled Network Element Cost Studies*, Section 4, pp. 55-57, 60-61 (Oct. 2, 2000) (Public Version); *BellSouth's Post-Hearing Brief*, pp. 7-8 (Jan. 23, 2001).

<sup>51</sup> See Michael Starkey, Pre-Filed Rebuttal Testimony, pp. 15-17 (Nov. 20, 2000); Transcript of Proceeding, Dec. 1, 2000, v. V-A, p. 12, 28 (Redacted Version).

<sup>52</sup> See Michael Starkey, Pre-Filed Rebuttal Testimony, pp. 15-17 (Nov. 20, 2000); Transcript of Proceeding, Dec. 1, 2000, v. V-A, p. 28, 78-79 (Redacted Version).

<sup>53</sup> *BellSouth Telecommunications Inc. Unbundled Network Element Cost Studies*, Section 5, p. 60 (Oct. 2, 2000) (Public Version).

When BellSouth priced a 2-wire or a 4-wire copper loop in the Permanent Prices Docket, it made no distinction between a short and a long loop.<sup>54</sup> BellSouth's cost studies demonstrate that the recurring cost for a "2-wire copper loop – short" is \$13.10 while the recurring cost for a "2-wire copper loop – long" is \$45.66.<sup>55</sup> In the Permanent Prices Docket, the statewide, weighted average of a 2-wire analog voice grade loop is \$14.92 regardless of the length of the loop.<sup>56</sup> BellSouth also proposed rates for 4-wire copper loops, both short and long, in this docket.<sup>57</sup>

The 2-wire and the 4-wire copper, short or long, presented in this proceeding by BellSouth are, according to BellSouth, "**designed** circuits and include test access points."<sup>58</sup> The 2-wire and the 4-wire analog voice grade copper loops presented in Permanent Prices Docket **are not designed loops**. In addition, the methodology used in calculating the cost of these copper loops in this docket differs from that used in the Permanent Prices Docket. In this proceeding, BellSouth uses a per foot equivalent of the loop matched with the average length of loop for each element, while this approach was not used in the Permanent Prices Docket.<sup>59</sup>

Simply put, BellSouth introduced a new pricing methodology in violation of the Pre-Hearing Officer's order to use the methodology approved in the Permanent Prices Docket. BellSouth offers no support whatsoever for the change in loop cost methodology. Moreover,

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<sup>54</sup> See *Permanent Prices, Summary of Modifications and Adjustments to BellSouth Telecommunications Inc.'s Cost Studies Ordered by the Tennessee Regulatory Authority*, Executive Summary, Attachment 1, p. 1 (Dec. 1, 1999).

<sup>55</sup> See *BellSouth Telecommunications Inc. Unbundled Network Element Cost Study*, Executive Summary, p. vii (Oct. 2, 2000) (Public Version).

<sup>56</sup> See *Permanent Prices, Final Order*, p. 20 (Feb. 23, 2001); *Permanent Prices, Summary of Modifications and Adjustments to BellSouth Telecommunications Inc.'s Cost Studies Ordered by the Tennessee Regulatory Authority*, Executive Summary, Attachment 1, p. 1 (Dec. 1, 1999).

<sup>57</sup> See *BellSouth Telecommunications Inc. Unbundled Network Element Cost Study*, Executive Summary, p. vii (Oct. 2, 2000) (Public Version).

<sup>58</sup> *Id.* Section 5, p. 60 (emphasis added).

<sup>59</sup> See *id.* at 61.

there is a question as to the need for designed loops given that CLECs do not claim to require loops designed to provide specific services.

BellSouth's nonrecurring costs filed on October 2, 2000 differed according to loop length. BellSouth corrected this difference in its November 13, 2001 filing when BellSouth recognized that the nonrecurring costs were the same for short and long UCLs. Further analysis of BellSouth's cost studies reveals the following:

Cost Element	Recurring costs	Nonrecurring Costs with LMU		Nonrecurring Costs without LMU	
		First	Additional	First	Additional
2-Wire UCL – Short <sup>60</sup>	\$13.10	\$187.34	\$74.90	\$109.48	\$40.41
2-Wire UCL – Long <sup>61</sup>	\$45.66	\$187.34	\$74.90	\$109.48	\$40.41
2-Wire Analog Voice Grade Loop (Service Level 1) <sup>62</sup>	\$14.92	\$109.85	\$54.51	\$31.99	\$20.02

There is no reason to justify why the cost of a 2-wire copper loop in the Permanent Prices Docket should differ from the cost of a 2-wire UCL short or long in this docket; especially if the same cost methodology was applied in both proceedings. Thus, the recurring and nonrecurring costs for a 2-wire and a 4-wire UCL (short or long) should equal the recurring and nonrecurring cost of a 2-wire analog voice grade loop (SL1) and a 4-wire analog voice grade loop established in the Permanent Prices Docket.

Based on the foregoing, the Directors unanimously voted to:

1. Order that the recurring and nonrecurring costs for a 2-wire and a 4-wire UCL, short or long, be set equal to the recurring and nonrecurring cost of a 2-wire analog voice grade loop (SL1) and a 4-wire analog voice grade loop established in the Permanent Prices Docket;

<sup>60</sup> See *id.* Executive Summary, p. vii (recurring costs); D. Daonne Caldwell, Pre-Filed Direct Testimony, Exh. DDC-1, Executive Summary, p. iii (Nov. 13, 2000) (nonrecurring costs).

<sup>61</sup> See *BellSouth Telecommunications Inc. Unbundled Network Element Cost Study*, p. vii (Oct. 2, 2000) (Public Version) (recurring costs); D. Daonne Caldwell, Pre-Filed Direct Testimony, Executive Summary, p. iii (Nov. 13, 2000) (nonrecurring costs).

<sup>62</sup> The figures for this element are not from BellSouth's cost studies in this docket. Instead, they are derived as follows: The 2-Wire Analog Voice Grade Loop (Service Level 1) is from the Permanent Prices Docket. See *Permanent Prices, Final Order*, p. 20 (Feb. 23, 2001); *Permanent Prices, Cost Study, Executive Summary*, Sec. 1, pp. iv-v (Jun. 9, 2000). The nonrecurring costs with LMU is calculated by adding respectively \$77.86 (i.e., \$187.34 - \$109.48) and \$34.49 (i.e., \$74.90 - \$40.41) to the nonrecurring costs without LMU.

2. Order BellSouth to provide "non-designed" loops to CLECs and to provide to the Authority additional cost studies for loop design that BellSouth performs at the request of a CLEC within 30 days of the entry of the Authority's written order in this proceeding;

3. Defer setting rates for BellSouth's other xDSL compatible loops (i.e., HDSL, ADSL, and IDSL/UDC) until after BellSouth revises its cost study; and

4. Order that BellSouth should mark loops qualified for xDSL services and that before BellSouth rolls xDSL capable copper loops to fiber, it must notify CLECs, giving them enough time and information to inform their customers about when and for how long the service will be disrupted and when the service will be restored. This notice must be the same as the notice BellSouth serves its own ADSL customers. In addition, BellSouth must minimize service disruptions whenever technically feasible.

**7. What should ILECs charge for a shared loop?**

For a shared loop, both Sprint/United and BellSouth appropriately allocated \$0.00 to the cost of the local loop. This does not include splitter, DSLAM, collocation or other related items necessary to operate a shared loop, but is for use of the high frequency portion of the loop facility only. Because line sharing is only possible when an ILEC is the voice service provider to the end user, any CLEC that would like to provide both analog voice service and xDSL services should purchase stand-alone loops at the rates approved by the Authority in the Permanent Prices docket. This is also true whenever a CLEC wishes to continue providing xDSL services to a customer who terminates its ILEC provider's voice services. Therefore, the Directors found that there is no incremental loop cost associated with the use of the high frequency portion of the loop via a line sharing arrangement and unanimously voted to order that for a loop purchased by a CLEC to provide both analog voice services and xDSL services, or in the event a CLEC wishes to continue providing xDSL services to a customer who terminates its ILEC provider's voice services, ILECs shall charge the recurring and nonrecurring rates of a stand-alone loop.

**8. Should the Authority order ILECs to make line splitting available in Tennessee?**

Neither Sprint/United's nor BellSouth's cost study included line splitting. At the time cost studies were filed, the FCC had not made line splitting a clear requirement of ILECs. With the issuance of the *Line Splitting Order*, however, the FCC clearly required ILECs to allow line splitting. In that order, the FCC required ILECs to make all necessary network modifications to facilitate line splitting, including providing nondiscriminatory access to OSS necessary for pre-ordering, ordering, provisioning, maintenance and repair, and billing for loops used in line splitting arrangements. The FCC concluded that ILECs must perform the central office work necessary to deliver unbundled loops and switching to a CLEC's physically or virtually collocated splitter that is part of a line splitting arrangement.<sup>63</sup>

According to the FCC, ILECs are encouraged to work with CLECs to develop processes and systems to support the development of line splitting and to address other issues.<sup>64</sup> The FCC also stated:

Furthermore, because no central office wiring changes are necessary in a conversion from line sharing to line splitting, we expect incumbent LECs to work with competing carriers to develop streamlined ordering processes for migrations between line sharing and line splitting that avoid voice and data service disruption and make use of the existing xDSL-capable loop.<sup>65</sup>

The FCC believes that the availability of line splitting will further speed the deployment of competition in the advanced services market and will foster the development of new technologies to support new forms of telecommunications services.<sup>66</sup> The FCC expected to

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<sup>63</sup> See *Line Splitting Order* at para. 20.

<sup>64</sup> See *id.* at para. 21

<sup>65</sup> *Id.* at para. 22 (footnotes omitted).

<sup>66</sup> See *id.* at paras. 23 & 24.

further address issues closely related to line splitting, including splitter ownership, in upcoming proceedings where the record better supports the analysis of these complex issues.<sup>67</sup>

The FCC refused to decide the splitter ownership issue.<sup>68</sup> For line sharing, the FCC stated that ILECs were not required to provide splitters to CLECs.<sup>69</sup> Nonetheless, based on the nondiscriminatory provisions of the Telecommunications Act of 1996 and Tennessee statutes, the Authority should require ILECs to provide ILEC-owned and maintained splitters.<sup>70</sup> We see no reason to treat line splitting differently.

For the foregoing reasons, the Directors voted to:

1. Order that, pursuant to the FCC *Line Splitting Order*, and the directives of the Authority herein, ILECs in Tennessee should make line splitting available to requesting CLECs;

2. Order Sprint/United and BellSouth to submit cost studies for the limited situation where the ILEC permits CLECs to engage in line splitting using UNE-P and the CLEC purchases the entire loop and provides its own splitter, within 30 days of the entry of the Authority's written order.

3. Order Sprint/United and BellSouth to submit cost studies for the situation where the ILEC permits CLECs to engage in line splitting using UNE-P and the CLEC purchases the entire loop and the ILEC provides the splitter, within 30 days of the entry of the Authority's written order.

#### **9. What process should ILECs use to provision line splitting?**

Issues related to line splitting, even though raised by some parties, were not fully addressed in the pre-filed testimony or during the Hearing. The FCC has not fully addressed line splitting issues, but the FCC encouraged ILECs and CLECs to use existing state collaboratives to address such issues.<sup>71</sup> Given that there is no such collaborative under way in Tennessee, the

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<sup>67</sup> See *id.* at para. 25.

<sup>68</sup> See *id.* at para. 25.

<sup>69</sup> See *Line Sharing Order* at paras. 77 & 146.

<sup>70</sup> See 47 U.S.C. § 251(c) (Supp. 2000); 47 C.F.R. § 51.311(a); Tenn. Code Ann. § 65-4-124 (Supp. 2001); see also *infra* Issue 10.

<sup>71</sup> See *Line Splitting Order* at para. 21.

Directors unanimously voted to address the terms and conditions for line splitting within Docket No. 01-00526, *In re: Generic Docket to Establish Generally Available Terms and Conditions for Interconnection*.

**10. What splitter ownership options should ILECs be required to offer in Tennessee?**

The FCC's *Line Sharing Order* does not require ILECs to own splitters, but recognizes that ILECs have experience in splitter installation and functionality, because they have been providing DSL services even before the *Line Sharing Order* was issued.<sup>72</sup> Although not mandated by the FCC, allowing ILECs and CLECs to share splitters would efficiently reduce the number of splitters required.

Given that ILECs own splitters for their data affiliates to use in providing xDSL services, ILECs should offer CLECs ILEC-owned and maintained splitter options for xDSL services pursuant to Tenn. Code Ann. § 65-4-124(a). Absent this requirement and as long as ILECs own splitters for their data affiliates' use in the provision of DSL services, ILECs will favor their data affiliates to the detriment of CLECs.

CLECs involved in line sharing or splitting that can afford to own and maintain their own splitters could manage their capacity better and use the best technology available without depending on ILECs. This would benefit the development of competition for xDSL services in Tennessee and should be encouraged.

Therefore, the Directors unanimously voted to:

1. Order three splitter-ownership options: ILEC-owned/ILEC-maintained, CLEC-owned/ILEC-maintained, and CLEC-owned/CLEC-maintained;
2. Order Sprint/United to modify its splitter cost methodology as follows: (a) include Sprint/United-owned/maintained splitter; (b) allow CLECs to purchase either a 96-line or a 24-line splitter; (c) capitalize installation costs at the cost of capital ordered in the Permanent Prices

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<sup>72</sup> See *Line Sharing Order* at paras. 145 & 146.

Docket and recover them through monthly recurring rates over a fixed period of time; and (d) replace estimated CLEC investment per shelf by actual investment amount; and

3. Order Sprint/United to file a modified cost study within 30 days of the entry of the Authority's written order.

**11. Splitters and cross-connects:**

- a. **Where should ILEC-owned splitters be collocated in the Central Office?**
- b. **What should be the rate of cross connects for ILEC-owned splitters?**
- c. **What process should ILECs use to provision ILEC-owned splitters?**

In its *Line Sharing Order*, the FCC decided:

We would expect that the costs of installing cross connects for xDSL services in general would be the same as for cross connecting loops to the competitive LECs' collocated facilities, particularly where the splitter is located within the incumbent LEC's MDF. Accordingly, we find it reasonable to establish a presumption that, where the splitter is located within the incumbent LEC's MDF, the cost for a cross connect for entire loops and for the high frequency portions of loops should be the same. We would expect the states to examine carefully any assessment of costs for cross connections for xDSL services that are in excess of the costs of connecting loops to a competitive LECs' collocated facilities where the splitter is located within the MDF. If the splitter is not located within the incumbent LEC's MDF, however, then we would expect the states to allow the incumbent LEC to adjust the charge for cross connecting the competitive LEC's xDSL equipment to the incumbent LECs' facilities to reflect any cost differences arising from the different location of the splitter, compared to the MDF. We would expect that this amount would be only minimally higher than for cross connecting a splitter located within the MDF to the competitive LEC's xDSL equipment.<sup>73</sup>

Clearly, if the splitter is not located within the ILEC's MDF, the FCC expected that the cost would be higher, but that the difference would be small. The states were urged to scrutinize any discrepancy between costs for cross connections for entire loops and for the high frequency portions of the loops.

Nothing in the FCC's *Line Sharing Order* suggests that CLECs may dictate the location of an ILEC-owned splitter. However, an ILEC-owned splitter could be located in any of the

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<sup>73</sup> *Id.* at para. 145.



following locations within the central office: the MDF, in a relay rack mounted arrangement or intermediate frame arrangement.

Because line sharing equipment is not located near BellSouth's MDF, cross connect costs can be artificially inflated. The FCC did not determine where the line sharing equipment should be located. However, the FCC determined that cross connect costs should not differ substantially regardless of where the equipment is located.

BellSouth recovers part of its cross connects cost through its per line activation costs and its collocation costs. The Authority ordered BellSouth to modify its cost studies for cross connects rates to reflect whether the splitter is located within the ILEC's MDF.<sup>74</sup> However, BellSouth maintains that splitters cannot be located on or adjacent to the MDF and did not modify its cost study to reflect this arrangement.

Placing splitters on the MDF would be an inefficient use of space and would create security and/or testing problems. BellSouth's placement of the splitter at an average of 150 feet from the MDF may be excessive, however, as it leads to higher costs and could be anti-competitive. Therefore, where BellSouth can place the splitter adjacent to the MDF or at a distance less than 150 feet, it should do so to minimize cost.

BellSouth's proposed costs for 2-wire and 4-wire cross-connects do not seem excessive. The monthly recurring costs for DS1 cross-connects, however, are significantly higher than the costs adopted in the Permanent Prices Docket.<sup>75</sup> This difference arises because BellSouth exceeds the maximum allowable length for a DS1 jumper and then must compensate by using a

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<sup>74</sup> See *Order Adopting Interim Rates*, p. 7 (Nov. 7, 2000).

<sup>75</sup> In this Docket, BellSouth proposed a rate of \$12.45 for element H.3.3 Assembly Point: DS-1 Cross-Connects. See *BellSouth Telecommunications, Inc. Unbundled Network Element Cost Studies*, Executive Summary, p.8 (Oct. 2, 2000) (Public Version). In the Permanent Prices Docket, BellSouth proposed a rate of \$0.38 for Connection to DSX. See *Permanent Prices, Competitive Local Exchange Carrier Tariff for the State of Tennessee*, Tennessee Price Schedule, p. 9 of 21 (Oct. 24, 2001).

bi-directional DS1 intra-office repeater on every DS1 cross-connect. A remedy is for BellSouth to place an ILEC-owned splitter on the MDF, but this is not efficient. A better alternative is for BellSouth, whenever possible, to place splitters within 100 feet of the ILEC's MDF (Sprint/United assumed 95 feet from the MDF to the splitter)<sup>76</sup> and to provide additional cost studies for splitter collocation.

Unless ILECs prove to the Authority that it is not technically feasible to offer both "line-at-a-time" and "shelf-at-a-time," it is in the interest of competition to order ILECs to offer a menu of services that allow CLECs the maximum reasonable amount of flexibility. Before xDSL services massively penetrate the market, a "shelf-at-a-time" offer could result in under-utilization of the splitter and over-recovery for ILECs owning the splitter.

BellSouth requires CLECs to purchase access to its splitter in either 24-port or 96-port increments. It does not offer a per-port option. If a small CLEC is only interested in a small number of ports, it will be forced to purchase more capacity than it needs. This may constitute a barrier to entry in the market for advanced services. Offering a choice between shelf-at-a-time and port-at-a-time provisioning will allow CLECs more flexibility.

Based on the foregoing, the Directors unanimously voted to:

1. Order Sprint/United to mount the splitter adjacent to Sprint/United's MDF if it is technically feasible as envisioned by the FCC when Sprint/United offers ILEC-owned/maintained splitters;
2. Order Sprint/United and BellSouth to modify their splitter cost methodology so that, for ILEC-owned/maintained splitter, they provide splitter functionality on an individual "port-at-a-time" or on a "shelf-at-a-time" basis, at the option of the CLEC;
3. Order that when ILEC-owned/maintained splitters are used, BellSouth should mount the splitters in a relay rack adjacent to or within 100 feet of its MDF where technically feasible as envisioned by the FCC; and

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<sup>76</sup> See Daniel R. Gordon, Pre-Filed Direct Testimony, p. 12 (Nov. 13, 2000).

4. Order BellSouth and Sprint/United to submit new collocation cost studies, which include all ordered splitter placement options within 30 days of the entry of the Authority's written order.

**12. What should be the monthly recurring charge for the functionality of ILEC-owned splitters?**

Sprint/United's cost study is based on its belief that it is not required to provide splitters to CLECs.<sup>77</sup> Therefore, there is no monthly recurring rate proposed in its cost study for ILEC-owned splitters. BellSouth proposed monthly recurring costs of \$183.79 for a 96-Line Capacity Splitter System and \$45.95 for a 24-Line Capacity Splitter System.<sup>78</sup> During cross-examination, BellSouth's witness, D. Daonne Caldwell, could not explain the difference between BellSouth's invoice price of \$3,335.21 and the material price of \$4,242.70 for a splitter reflected in BellSouth's cost study.<sup>79</sup> If BellSouth had filed supporting documentation for the cost study, its witness may have been able to explain this difference. Instead, Ms. Caldwell suggested that BellSouth may have added the cost of additional equipment to the price on the invoice.<sup>80</sup>

The actual material prices from BellSouth's suppliers or vendors are proprietary among BellSouth and its suppliers. This raises concerns as to the veracity of the material prices that BellSouth used, since none of the parties – not even the Authority – could verify the authenticity of the numbers that are included in the cost studies. The Authority is being asked to blindly accept BellSouth's material prices even though BellSouth was not able to explain some of its price inputs in the cost studies. As such, there is a need to further review BellSouth's material prices.

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<sup>77</sup> See *Sprint's Post-Hearing Brief*, p. 8 (Jan. 23, 2001).

<sup>78</sup> See *BellSouth Telecommunications, Inc. Unbundled Network Element Cost Studies*, Executive Summary, p. xii (Oct. 2, 2000) (Public Version).

<sup>79</sup> See Transcript of Proceedings, Nov. 27, 2000, v. I-C, p. 144-45 (Hearing).

<sup>80</sup> See *id.* at 145.

Based on the foregoing, the Directors unanimously voted to:

1. Order Sprint/United to file a new cost study containing monthly recurring rates for all splitter ownership options ordered in this proceeding within 30 days of the entry of the Authority's written order;
2. Reject the Data Coalition's proposed charges of \$291.48 for all tasks associated with engineering and installation of the ILEC-owned splitter because adopting this charge is not justified by the use of BellSouth's network;
3. Order BellSouth to adjust the splitter monthly recurring rate for an ILEC-owned splitter to reflect BellSouth's invoice for the material price;
4. Order BellSouth and Sprint/United to offer CLECs three alternatives for the monthly recurring costs: (a) ILEC-owned splitter without the bantam jack test; (b) ILEC-owned splitter with the bantam jack test; and (c) Mechanized Loop Testing; and
5. Order BellSouth to file the adjusted rates within thirty (30) days of the entry of the Authority's written order.
6. Remand this Docket to the Pre-Hearing Officer to devise a mechanism through which the Authority and parties can verify the material prices in an expedient and efficient manner. BellSouth shall use the material prices previously submitted in the interim.

**13. What should be the nonrecurring charge for the functionality of ILEC-owned/maintained splitters?**

Sprint/United's cost study does not include the ILEC-owned splitter option. For the CLEC-owned splitter options, the nonrecurring charges proposed by Sprint/United for cross connects and jumpers associated with splitter installation will be reduced by the work time adjustments adopted herein. BellSouth proposed splitter nonrecurring costs of \$371.63 for 96-line and 24-line splitters. It does not make sense that when a CLEC orders a 24-line splitter it is charged \$15.48 per port and when it orders a 96-line splitter it is charged \$3.87 per port. Therefore, the Directors unanimously voted to order BellSouth and Sprint/United to adjust their splitter nonrecurring rates to reflect the Authority's directives to provision splitters a port-at-a-time and a shelf-at-a-time.

**14. Loop Conditioning:**

- a. What network assumptions should support recurring and nonrecurring loop conditioning costs?**
- b. What loop conditioning rates should the Authority adopt?**

The FCC requires ILECs to condition loops, regardless of loop length, in order to enable requesting carriers to provide xDSL services on the same loops over which ILECs provide analog voice service unless conditioning that loop would significantly degrade the ILEC's voice service.<sup>81</sup> The FCC also concluded that ILECs should be compensated for conditioning loops less than 18,000 feet.<sup>82</sup>

BellSouth separated loop conditioning costs between short loops, under 18,000 feet, and long loops, over 18,000 feet.<sup>83</sup> However, as explained below, the assumptions underlying BellSouth's loop conditioning costs may result in inflated costs. As with other costs presented in this proceeding, BellSouth does not support its loop conditioning costs with sufficient documentation.

Unlike Sprint/United, which assumes it will condition 25 pairs at a time,<sup>84</sup> BellSouth assumes that it will only condition 10 pairs at a time for shorter loops and two pairs at a time for longer loops.<sup>85</sup> In addition, BellSouth assumes an average of 2.1 load coils/equipment per short loop and 3.5 load coils/equipment per long loop.<sup>86</sup> It also assumes that bridged taps exist at 3 points on a loop, and that CLECs will order 6 pairs while the remaining 4 will be used by

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<sup>81</sup> See *Line Sharing Order* at paras. 84 & 85; *UNE Remand Order* at para 172.

<sup>82</sup> See *id.* at para. 82.

<sup>83</sup> See *BellSouth Telecommunications, Inc. Unbundled Network Element Cost Studies*, Section 5, pp. 60, 67-68 (Oct. 2, 2000) (Public Version).

<sup>84</sup> See *Sprint's Post-Hearing Brief*, p. 4 (Jan. 23, 2001).

<sup>85</sup> See *BellSouth Telecommunications, Inc. Unbundled Network Element Cost Studies*, Section 5, pp. 67-68 (Oct. 2, 2000) (Public Version); See D. Daonne Caldwell, Pre-Filed Direct Testimony, Exh. DDC-1, xDSL Capable and Copper Loops, Inputs\_Connect & Test (file name TN-xdsl.xls), pp. 000174 - 178 (Nov. 13, 2000) (Unbundled Loop Modification).

<sup>86</sup> See *BellSouth Telecommunications, Inc. Unbundled Network Element Cost Studies*, Section 5, pp. 67 (Oct. 2, 2000) (Public Version).

BellSouth.<sup>87</sup> In effect, BellSouth developed a nonrecurring “additive” charge to assess on each xDSL unbundled loop purchased by a CLEC. The purpose of the “additive” is to recover conditioning costs associated with 4 out of every 10 loops conditioned.

This charge may not be appropriate, as BellSouth fails to present any proof demonstrating that the share of CLECs in this market is or will be 60%. Moreover, BellSouth witness, D. Daonne Caldwell, admitted that BellSouth has counted some loop conditioning costs in the maintenance account. She stated: “But I think you need to look at our factors to see that we do not have an aggressive plan for removing load coils at this point in time, so there’s not a lot of money in those projected maintenance accounts.”<sup>88</sup> CLECs claim that BellSouth does not charge its retail ADSL services for loop conditioning and BellSouth’s federal tariff does not mention loop conditioning.<sup>89</sup>

Other assumptions that were challenged by the parties include the plant mix: underground, buried, and aerial plant mix factors.<sup>90</sup> These assumptions may inflate the costs for loop conditioning and can constitute a barrier to entry for CLECs.

CLECs also argue that BellSouth has seriously inflated the work times and associated costs for loop conditioning.<sup>91</sup> A demonstration performed by one of the parties during the Hearing casts serious doubts on BellSouth’s estimated task times in its cost studies even though

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<sup>87</sup> See *id.* at 67-68.

<sup>88</sup> Transcript of Proceedings, Nov. 27, 2000, v. I-B, p. 107 (Hearing).

<sup>89</sup> *Post-Hearing Brief of the Data Coalition*, pp. 40, 45-46 (Jan. 23, 2001) (Public Version).

<sup>90</sup> See Michael Starkey, Pre-Filed Rebuttal Testimony, pp. 62-65 (Nov. 20, 2000); Dean R. Fassett, Pre-Filed Rebuttal Testimony, pp. 60-62 (Nov. 20, 2000).

<sup>91</sup> The Data Coalition proposes 8 minutes excluding travel time for underground cable load coil removal in a manhole. See Dean R. Fassett, Pre-Filed Rebuttal Testimony, pp. 71-72, 74 (Nov. 20, 2000). BellSouth proposes 51.03 minutes for the same activity. See D. Daonne Caldwell, Pre-Filed Direct Testimony, Exh. DDC-1, xDSL Capable and Copper Loops, Inputs\_Connect & Test (file name TN-xdsl.xls), pp. 000176 (Nov. 13, 2000) (Unbundled Loop Modification).

the demonstrator, Mr. Dean Fassett, admitted that he did not follow all the required steps and that he based his estimates from his personal experience and opinion.<sup>92</sup>

In the Permanent Prices Docket and in this proceeding, when calculating recurring rates, BellSouth did not assume the existence of load coils or repeaters on loops less than 18,000 feet because it assumed that loops in excess of 12,000 feet were fiber.<sup>93</sup> Indeed, BellSouth assumed that "Loops 12 kilofeet (KFT) and greater are redesigned to be served with Digital Loop Carrier (DLC) and fiber feeder. Loops less than 12 KFT in length are redesigned to be served on either 26 gauge or a combination of 26 and 24 gauge copper cable."<sup>94</sup>

Some of BellSouth's work times and the costs associated with them are unreasonably high. In addition, BellSouth's cost studies do not show cost savings due to the use of a forward-looking network. Further, the cost studies fail to include any new generation DLC technology even though BellSouth's witnesses admitted that this new technology was deployed in Tennessee.<sup>95</sup> In the Permanent Prices Docket, the Authority ordered the use of 70.38% Integrated DLC and 29.62% analog line terminations in calculating switching ports.<sup>96</sup> This mix must be used in setting recurring and nonrecurring rates in this proceeding. BellSouth must account for the proportion of its network served on DLC and fiber feeder that does not require loop conditioning and the proportion of loop conditioning costs accounted for in its maintenance accounts in order to show the savings due to a forward-looking network.

<sup>92</sup> See Transcript of Proceedings v. VI-C, pp. 182-83 (Hearing).

<sup>93</sup> See *BellSouth Telecommunications, Inc. Unbundled Network Element Cost Studies*, Section 3, p. 11 (Oct. 2, 2000) (Public Version); *Permanent Prices, BellSouth Telecommunications, Inc. Tennessee Benchmark Cost Proxy Model* 2.5, p. 000022 (Nov. 24, 1997).

<sup>94</sup> See *BellSouth Telecommunications, Inc. Unbundled Network Element Cost Study*, Section 3, p. 11 (Oct. 2, 2000) (Public Version).

<sup>95</sup> See Keith Milner, Pre-Filed Direct Testimony, pp. 3-9 (Nov. 13, 2000).

<sup>96</sup> See *Permanent Prices, Interim Order on Phase I of Proceeding to Establish Prices for Interconnection and Unbundled Network Elements*, p. 26 (Jan. 25, 1999).

Sprint/United's loop conditioning methodology is more efficient than BellSouth's methodology and should be adopted for both Sprint/United's and BellSouth's loop conditioning cost. Adopting Sprint/United's loop conditioning methodology for BellSouth's cost study is warranted because it is cost-effective and pro-competitive. BellSouth's methodology lacks of sufficient documentation and is not supported by industry loop conditioning practices.

Based on the foregoing, the Directors unanimously voted to:

1. Order that ILECs in Tennessee are entitled to recover loop conditioning costs even on loops less than 18,000 feet;
2. Adopt Sprint/United's loop conditioning methodology and rates as proposed in this proceeding for United's territory in Tennessee;
3. Order BellSouth to account for the portion of its network served on DLC and fiber feeder that does not require loop conditioning and the portion of loop conditioning costs accounted for in its maintenance accounts in order to show the savings due to a forward-looking network;
4. Order BellSouth to use Sprint/United's loop conditioning cost methodology for loops less than 18,000 feet as follows: (a) remove load coils on an entire binder of 25 cable pairs at a time and adjust the cost per cable pair by the feeder fill percentage; (b) calculate a weighted average cost for all loops (underground, aerial, and buried); (c) multiply the weighted average cost for all loops by the percentage of loaded loops; (d) reduce the result by a CLEC customer churn factor; and (e) spread all loop conditioning costs across all digital-capable loops shorter than 18,000 feet; and
5. Order BellSouth to file new loop conditioning rates within 30 days of the entry of the Authority's written order.

**15. What is the appropriate time interval for ILECs to provide the line sharing UNE to CLECs?**

It is important that neither BellSouth's nor Sprint/United's data affiliate enjoy preferential treatment as compared to CLEC data providers. Compared to the ILECs, however, the Data Coalition provided most of the testimony on the interval necessary for ILECs in Tennessee to enable line sharing for a CLEC data carrier's customer and the interval necessary



for ILECs in Tennessee to expand a CLEC's existing collocation arrangement in order to enable line sharing for a CLEC data carrier's customer.

Sprint/United did not propose any provisioning intervals. From BellSouth's interconnection agreement with Covad, BellSouth states:

2.11 BellSouth will initially provide access to the HUNE [High Frequency Portion of the Line Sharing UNE] within the following intervals: Beginning on June 6, 2000, BellSouth will return a Firm Order Confirmation ("FOC") in no more than two (2) business days. BellSouth will provide Covad with access to the HUNE as follows:

2.11.1 For 1-5 lines at the same address within three (3) business days from the receipt of Covad's LSR [Local Service Request]; 6-10 lines at the same address within 5 business days; and more than 10 lines at the same address is to be negotiated. BellSouth and Covad will re-evaluate these intervals on or before August 1, 2000.<sup>97</sup>

In response to an Authority data request, BellSouth clarified its position on provisioning intervals as follows: 1) for 1-5 Plain Old Telephone Service ("POTS") lines without Network Interface Device ("NID") or Synchronization-at-NID, BellSouth provisions the line sharing UNE in 3 business days; 2) for 1-5 POTS lines with NID or Synchronization-at-NID, BellSouth provisions the line sharing UNE in 4 business days; 3) for 6-14 POTS and Centrex lines with or without NID or Synchronization-at-NID, BellSouth provisions the line sharing UNE in 5 business days; and 4) for more than 14 lines, the installation process follows guidelines of a negotiated project.<sup>98</sup> The provisioning intervals proposed here are for a data rate of 1.5 Mbps x 256 Kbps. For higher data rates, BellSouth proposes a minimum of 5 business days.<sup>99</sup> Further, BellSouth states that it does not have an ADSL unit, but instead, provisions BellSouth

<sup>97</sup> *BellSouth Telecommunications, Inc.'s Notice of Filing, Attachment 4: Amendment to the Interconnection Agreement Between Dieca Communications, Inc. d/b/a Covad Communications Company and BellSouth Telecommunications, Inc., Section 2.11 (Jun. 30, 2001).*

<sup>98</sup> *See BellSouth's Response to the Staff's Data Request, Item 2 (Aug. 6, 2001).*

<sup>99</sup> *See id.*

FastAccess® Internet Service, BellSouth's retail, non-regulated Internet access service, from BellSouth's wholesale ADSL tariff.<sup>100</sup>

Based on the limited testimony and the work times necessary for ILECs to provide line sharing as described in Exhibit No. 1 to this Order, the Authority unanimously voted to:

1. Order that for 1-5 lines at the same end-user address, the provisioning and installation interval for the high frequency portion of the loop UNE, where **no conditioning is necessary** should be 3 business days from the receipt of a CLEC's Local Service Request ("LSR");

2. Order that for 1-5 lines at the same end-user address, the provisioning and installation interval for the high frequency portion of the loop UNE, where **conditioning is necessary** should be 5 business days from the receipt of a CLEC's LSR;

3. Order that for 6-14 lines at the same end-user address, the provisioning and installation interval for the high frequency portion of the loop UNE, where **no conditioning is necessary** should be 5 business days from the receipt of a CLEC's LSR;

4. Order that for 6-14 lines at the same end-user address, the provisioning and installation interval for the high frequency portion of the loop UNE, where **conditioning is necessary** should be 10 business days from the receipt of a CLEC's LSR; and

5. Order that the parties should negotiate an appropriate provisioning interval for orders of more than 14 lines per order or per end-user location, whether conditioning is necessary or not.

16. **Should the Authority require ILECs to provide CLECs full test access to all technically feasible points of interconnection?**<sup>101</sup>

In its *UNE Remand Order*, the FCC stated: "Thus, we conclude that, in so far as it is technically feasible, the incumbent must test and report trouble on conditioned lines, if requested

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<sup>100</sup> See *id.*

<sup>101</sup> Sprint/United did not address this issue as a result of a ruling of the Pre-Hearing Officer. During a Pre-Hearing Conference on August 3, 2000, the Pre-Hearing Officer granted a motion to expand this docket to include rates for the UCL element. See *Order of Pre-Hearing Officer Granting Petitions for Leave to Intervene, Motions to Expand the Docket, Motion for Interim Relief, Motion to Establish a Procedural Schedule, and Motion to Extend Deadline to File Reply Comments*, p. 2 (Aug. 10, 2000). The Pre-Hearing Officer allowed Sprint/United to continue to participate in the docket without filing additional cost studies regarding the UCL after learning that Sprint/United does not offer a product like the UCL and has not received requests for UCLs or its equivalent. See *Transcript of Proceedings*, Aug. 3, 2000, pp. 50- 53, 64 (Pre-Hearing Conference). Given this ruling, Sprint/United did not address this issue.

by the competitor, for all of the line's features, functions, and capabilities, and may not restrict its testing to voice-transmission only."<sup>102</sup> In its *Line Sharing Order*, the FCC stated:

Thus, we require that incumbent LECs must provide requesting carriers with access to the loop facility for testing, maintenance, and repair activities. We require that, at a minimum, incumbents must provide requesting carriers with loop access either through a cross-connection at the competitor's collocation space, or through a standardized interface designed for [sic] to provide physical access for testing purposes. Such access must be provided in a reasonable and nondiscriminatory manner.<sup>103</sup>

BellSouth's proposed nonrecurring first and additional rates for testing might be unreasonably high, because of the unsupported underlying assumptions about labor rates and the half-hour work time increment. Therefore, the Directors unanimously voted to:

1. Order that no action is necessary for Sprint/United on this issue at this time;
  2. Reject the costs that BellSouth proposed for loop testing beyond voice grade; and
  3. Order the parties to file testing procedures and proposed rates based on splitter ownership options, along with supporting documentation for all assumptions, within 30 days of the entry of the Authority's written order.
17. **What cost and investment assumptions should be considered when ILECs upgrade their Operational Support Systems ("OSS") for line sharing?**

According to the FCC, "incumbent LECs should recover in their line sharing charges those reasonable incremental costs of OSS modification that are caused by the obligation to provide line sharing as an unbundled network element."<sup>104</sup> Further, the FCC determined: "[T]he OSS capabilities required for incumbent LEC provision of shared-line xDSL services are substantially similar to the OSS capabilities required for competitive LEC provision of shared-line xDSL services, and could be easily adapted to support unbundled access to the high

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<sup>102</sup> *UNE Remand Order* at para. 195.

<sup>103</sup> *Line Sharing Order* at para. 118.

<sup>104</sup> *Id.* at para. 144.

frequency portion of the loop network element.”<sup>105</sup> Accordingly, the monthly recurring charges should be capitalized so that the charges do not burden CLECs with large up front charges. The FCC gave states authority to require ILECs to recover such OSS costs through recurring charges over a reasonable period of time.<sup>106</sup>

Sprint/United used projected demand provided by various CLECs and a five-year cost recovery life to calculate the monthly recurring costs due to OSS modification for line sharing purposes.<sup>107</sup> It proposes that actual OSS modification costs and collected cost recovery be tracked such that this charge can be eliminated from the line sharing price once the recovery is completed.<sup>108</sup>

BellSouth’s proposed rates for Line Sharing Splitter in the Central Office attracted the most discussion from the parties and the Authority during the Hearing. BellSouth contends that it had to develop a separate OSS database for CLECs to use for line sharing.<sup>109</sup> BellSouth implemented a very expensive solution through a contract with Telecordia.<sup>110</sup> Because the expense to upgrade its OSS was enormous, the monthly rate proposed by BellSouth, \$8.45 for Element J.4.3: Line Sharing Splitter – Per Line Activation in the Central Office,<sup>111</sup> was also very high compared to Sprint/United’s \$0.83 monthly rate.<sup>112</sup>

On February 9, 2001, BellSouth informed the Authority that BellSouth and the Data Coalition reached a region-wide settlement of the rates for Element J.4.3: Line Sharing Splitter –

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<sup>105</sup> *Id.* at para. 99.

<sup>106</sup> *See id.* at para. 144.

<sup>107</sup> *See* Daniel R. Gordon, Pre-Filed Direct Testimony, p. 7 (Nov. 13, 2000).

<sup>108</sup> *See id.*

<sup>109</sup> *See* Ronald M Pate, Pre-Filed Direct Testimony, pp. 3, 14-19 (Nov. 13, 2000).

<sup>110</sup> *See* Transcript of Proceedings, Nov. 27, 2000, v. I-C, pp. 167-69 (Hearing) (dollar amounts marked as proprietary).

<sup>111</sup> *See BellSouth Telecommunications, Inc. Unbundled Network Element Cost Study*, Executive Summary, p. xii (Oct. 2, 2000) (Public Version).

<sup>112</sup> *See* Daniel R. Gordon, Pre-Filed Direct Testimony, p. 7 (Nov. 13, 2000).

Per Line Activation in the Central Office. In this filing, BellSouth agreed to the following:

1. BellSouth will charge \$0.61 per month as an interim rate, subject to retroactive true-up once a permanent rate has been established.
2. BellSouth will not seek to establish a permanent rate until (1) the Telcordia solution has been implemented and is commercially available; and (2) the parties in this docket have been advised in writing of BellSouth's intent to seek the establishment of a permanent rate.
3. BellSouth will only seek to establish a permanent rate in the context of an Authority proceeding in which the Authority must affirmatively approve the proposed rate rather than merely allowing the rate to go into effect.<sup>113</sup>

After setting forth the parties' agreement, BellSouth requested only that the Authority adopt the monthly recurring rate of \$0.61 as interim rate subject to true-up, for Element J.4.3. The Authority granted BellSouth's request and adopted the monthly recurring rate of \$0.61 for Element J.4.3. as an interim rate, and this new interim rate replaced the monthly recurring interim rate for the same element incorporated in the Authority's *Order Adopting Interim Rates* entered in this proceeding on November 7, 2000.<sup>114</sup>

Based on the foregoing, the Directors unanimously voted to approve the assumptions and adopt the rate proposed by Sprint/United for OSS recovery for line sharing. As to BellSouth, the Directors unanimously voted to adopt the monthly recurring rate of \$0.61 for Element J.4.3: Line Sharing Splitter – per Line Activation – Central Office as a permanent rate for BellSouth in Tennessee.

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<sup>113</sup> See Letter from BellSouth Telecommunications, Inc. dated Feb. 9, 2001 (filed Feb. 9, 2001).

<sup>114</sup> See *Order Approving Agreed interim, monthly, Recurring Rates for Element J.4.3*, pp. 2-3 (Apr. 23, 2001) (altering *Order Adopting Interim Rates*, Exh. 1, p.2, Line Item 2 (Nov. 7, 2000)).

18. **Loop Makeup ("LMU") information:**
- a. **What access should CLECs have to ILECs' LMU information?**
  - b. **What rate, if any, should CLECs pay when they place a manual local service request, if there is no electronic ordering interface available?**

The FCC has made it clear that

Loop qualification information identifies the physical attributes of the loop plant (such as loop length, the presence of analog load coils and bridge taps, and the presence and type of Digital Loop Carrier) that enable carriers to determine whether the loop is capable of supporting xDSL and other advanced technologies. This information is needed by carriers seeking to provide advanced services over those loops through the use of packet switches and DSLAMs.<sup>115</sup>

The FCC also stated that the information that ILECs must provide to requesting carriers is, at a minimum, the same underlying information that the ILECs have in any of their own databases or other internal records.<sup>116</sup> According to the FCC:

[A]n incumbent LEC must provide the requesting carrier with nondiscriminatory access to the same detailed information about the loop that is available to the incumbent, so that the requesting carrier can make an independent judgement about whether the loop is capable of supporting the advanced services equipment the requesting carrier intends to install.<sup>117</sup>

The FCC also stated:

[A]ccess to loop qualification information must be provided to competitors within the same time intervals it is provided to the incumbent LEC's retail operations. To the extent such information is not normally provided to the incumbent LEC's retail personnel, but can be obtained by contacting incumbent back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information.<sup>118</sup>

In addition, the FCC clarified that

the relevant inquiry is not whether the retail arm of the incumbent has access to the underlying loop qualification, but rather whether such information exists anywhere within the incumbent's back office and can be accessed by any of the incumbent LEC's personnel. Denying competitors access to such information,

<sup>115</sup> *UNE Remand Order* at para. 426 (footnotes omitted).

<sup>116</sup> *See id.* at para. 427.

<sup>117</sup> *Id.* at para. 427.

<sup>118</sup> *Id.* at para. 431.

where the incumbent (or an affiliate, if one exists) is able to obtain the relevant information for itself, will impede the efficient deployment of advanced services. To permit an incumbent LEC to preclude requesting carriers from obtaining information about the underlying capabilities of the loop plant in the same manner as the incumbent LEC's personnel would be contrary to the goals of the Act to promote innovation and deployment of the new technologies by multiple parties.<sup>119</sup>

Further, the FCC made a very important finding when it addressed SBC Communications, Inc.'s loop qualification system stating:

[T]he incumbent LEC must provide access to the underlying loop qualification information contained in its engineering records, plant records, and other back office systems so that requesting carriers can make their own judgements about whether those loops are suitable for the services the requesting carriers seek to offer. Otherwise, incumbent LECs would be able to discriminate against other xDSL technologies in favor of their own xDSL technology.<sup>120</sup>

Based on the above cited authority, the Directors unanimously voted to:

1. Order that CLECs are entitled to both electronic and manual LMU;
2. Order Sprint/United to replace estimated times by actual times that its employees spend performing loop qualification tasks;
3. Order Sprint/United to offer two separate charges for loop qualification, one for manual and one for electronic LMU information;
4. Order BellSouth to reduce its proposed clerical time input for manual LMU performed by the Service Advocacy Center from 15 minutes to 10 minutes and to file with the Authority, within 30 days of the Authority's written order, new proposed rates for LMU information with or without a facility reservation number;
5. Order BellSouth to charge CLECs requesting LMU \$0.76 as an interim rate for both electronic and manual LMU information until BellSouth makes a showing that electronic access to LMU is available to all CLECs in Tennessee and the Authority establishes permanent rates for manual and electronic access to LMU information;
6. Order BellSouth to adjust its cost studies such that both manual and mechanized LMU information options are available when a CLEC orders a UNE with or without LMU, and to file the adjusted cost studies within 30 days of the entry of the Authority's written order;

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<sup>119</sup> *Id.* at para. 430.

<sup>120</sup> *Id.* at para. 428.

7. Order that the electronic or manual access to Loop Facilities Assignment Control System ("LFACS") and Loop Qualification System ("LQS") available to CLECs is sufficient for LMU information at this time; and

8. Order BellSouth to modify its cost study such that the percentage of time LMU does not exist in LFACS be reduced from 58.8% to 20%, and to file adjusted cost studies within 30 days of the entry of the Authority's written order.

19. **What should be the fallout rate accounting for orders that cannot flow through the system electronically? Should the fallout rate ordered by the Authority in the Permanent Prices Docket apply in this docket?**

In the Permanent Prices Docket, the Authority held: "Operational Support Service costs associated with all activities shall reflect a 7% fallout rate."<sup>121</sup> Further, the Authority also ordered: "[U]pon clarification of its Interim Order regarding non-recurring prices, BellSouth shall adjust its TELRIC model to reflect fifteen (15) minutes of work time to resolve a fallout situation that will occur 7% of the time. This adjustment results in an average work time per order of sixty-three (63) seconds."<sup>122</sup> Based on these earlier rulings, the Directors unanimously voted to order BellSouth to modify its cost studies, within 30 days of the entry of the Authority's written order, such that OSS costs associated with all work group activities reflect a 7% fallout rate and 15 minutes of work time to resolve a fallout situation.

20. **Should the Authority require ILECs to install, for the CLECs' use, dual-purpose line cards in the digital loop carrier system?**

In its *Line Splitting Order*, the FCC stated:

The Line Sharing Order also addressed the implications of a digital loop carrier (DLC) network architecture, in which the portion of the loop running from the central office to a remote terminal is on fiber facilities and the portion of the loop running from the remote terminal to the customer is on a copper loop facility. We concluded that incumbent LECs are required to unbundle the high frequency portion of the local loop even where the incumbent LEC's voice customer is served by DLC facilities. We also concluded that incumbents must provide

<sup>121</sup> *Permanent Prices, Interim Order on Phase I of Proceeding to Establish Prices for Interconnection and Unbundled Network Elements*, p. 40 (Jan. 25, 1999).

<sup>122</sup> *Id.*, *Order Re Petitions for Reconsideration and Clarification of Interim Order on Phase I*, p. 44 (Nov. 3, 1999).



unbundled access to the high frequency portion of the loop at the remote terminal as well as the central office.<sup>123</sup>

The FCC also stated:

If our conclusion in the *Line Sharing Order* that incumbents must provide access to the high frequency portion of the loop at the remote terminal as well as the central office is to have any meaning, then competitive LECs must have the option to access the loop at either location, not the one that the incumbent chooses as a result of network upgrades entirely under its own control. This approach is consistent with the dual goals expressed in the *Line Sharing Order* of allowing incumbents to deploy whatever network architecture they deem to be most efficient, while also requiring them to engage in good faith negotiations regarding their unbundling obligations.<sup>124</sup>

The FCC clarified:

We also recognize that there are other ways in which line sharing may be implemented where there is fiber in the loop and we do not mandate any particular means in this Order. Solutions largely turn on the inherent capabilities of equipment that incumbent LECs have deployed, and are planning to deploy, in remote terminals.<sup>125</sup>

The FCC continued that “[a]ll indications are that fiber deployment by incumbent LECs is increasing, and that collocation by competitive LECs at remote terminals is likely to be costly, time consuming, and often unavailable.”<sup>126</sup>

Given the above-cited authority, the Directors unanimously voted to:

1. Order BellSouth and Sprint/United to install, for the CLECs’ use, dual-purpose line cards in the fiber-fed Next Generation DLC equipment in the remote terminal;
2. Order that such installation of line cards should be allowed under nondiscriminatory terms and at just and reasonable rates; and
3. Order BellSouth and Sprint/United to file additional cost studies for such installation of line cards in the fiber-fed Next Generation DLC equipment at the remote terminal within thirty 30 days of the entry of the Authority’s written order.

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<sup>123</sup> *Line Splitting Order* at para. 8.

<sup>124</sup> *Id.* at para. 11 (footnotes omitted).

<sup>125</sup> *Id.* at para. 12.

<sup>126</sup> *Id.* at para. 13 (footnotes omitted).

**21. What deaveraging methodology should the Authority adopt?**

The Authority unanimously voted to defer consideration of this issue to Docket No. 01-00339, *In re: Generic Docket to Consider Technology Advances and Geographic Deaveraging*.

**22. What process should the Authority adopt to enable CLECs to access Unbundled Network Terminating Wire ("UNTW") and riser cable or Unbundled Intrabuilding Network Cable ("UINC")?**

The FCC has found:

[L]ack of access to unbundled subloops materially diminishes a requesting carrier's ability to provide services that it seeks to offer. We also conclude that access to subloop elements is likely to be the catalyst that will allow competitors, over time, to deploy their own complementary subloop facilities, and eventually to develop competitive loops. . . . Accordingly, we conclude that incumbent LECs must provide unbundled access to subloops nationwide, where technically feasible.<sup>127</sup>

The FCC defines "subloops" and "accessible terminal" as follows:

We define subloops as portions of the loop that can be accessed at terminals in the incumbent's outside plant. An accessible terminal is a point on the loop where technicians can access the wire or fiber within the cable without removing a splice case to reach the wire or fiber within. These would include a technically feasible point near the customer premises, such as the pole or pedestal, the NID . . . or the minimum point of entry to the customer premises (MPOE). Another point of access would be the feeder distribution interface (FDI), which is where the trunk line, or "feeder," leading back to the central office, and the "distribution" plant, branching out to the subscribers, meet, and "interface." . . . A third point of access is, of course, the main distribution frame in the incumbent's central office.<sup>128</sup>

Further, the FCC stated:

In adopting a rule that requires incumbents to unbundle subloops at the points identified above, we seek to provide requesting carriers maximum flexibility to interconnect with the incumbent's network at technically feasible points in order to allow competitors to serve customers efficiently. Accordingly, we establish a rebuttable presumption that the subloop can be unbundled at any accessible terminal in the outside loop plant. If the parties are unable to reach an agreement pursuant to voluntary negotiations about the availability of space or the technical feasibility of unbundling the subloop at one of the points identified above, the incumbent will have the burden of demonstrating to the state, in the context of a

<sup>127</sup> *UNE Remand Order* at para. 205.

<sup>128</sup> *Id.* at para. 206 (footnotes omitted).

section 252 arbitration proceeding, that there is no space available or that it is not technically feasible to unbundle the subloop at these points.<sup>129</sup>

Concerning a single point of interconnection accessible to multiple carriers, the FCC stated:

To the extent there is not currently a single point of interconnection that can be feasibly accessed by a requesting carrier, we encourage parties to cooperate in any reconfiguration of the network necessary to create one. If parties are unable to negotiate a reconfigured single point of interconnection at multi-unit premises, we require the incumbent to construct a single point of interconnection that will be fully accessible and suitable for use by multiple carriers.<sup>130</sup>

BellSouth proposes the use of an intermediate terminal.<sup>131</sup> BellSouth claims that its proposal is motivated by the desire to ensure its network reliability and security and the need to maintain accurate records of the use of its network by its competitors.<sup>132</sup> BellSouth asserts that under its proposal there will be fewer wires that could be snipped than otherwise, because its technicians will perform the work instead of CLECs' technicians.<sup>133</sup> BellSouth wants to keep its terminal, that is, the terminal to which its loop facilities are connected, to itself.

During the Hearing, CLECs proposed that so long as their technicians follow the same proper safety standards and the same inventory control guidelines, the possibility of a network disruption and inventory control problems can be avoided. In addition, BellSouth failed to prove that CLECs' technicians are less competent or otherwise more likely to cause network outages than are BellSouth's technicians. In fact, BellSouth admitted that even its technicians do occasionally cause service disruptions.<sup>134</sup>

As for the inventory control issue, UNTW pairs are color-coded and BellSouth admitted that with enough time and effort, CLECs can gain the same information from BellSouth as to

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<sup>129</sup> *Id.* at para. 223 (footnotes omitted).

<sup>130</sup> *Id.* at para. 226 (footnotes omitted).

<sup>131</sup> See Keith Milner, Pre-Filed Direct Testimony, pp. 25-26 (Nov. 13, 2000).

<sup>132</sup> See *id.* at 27-28.

<sup>133</sup> See *id.*

<sup>134</sup> See Transcript of Proceedings, Nov. 28, 2000, v. II-D, p. 209 (Hearing).

which pairs to work.<sup>135</sup> Clearly, BellSouth failed to prove that it is not technically feasible to have direct access to its UNTW and INC subloops. BellSouth agreed that the procedures established in Georgia are working fine and that if Tennessee could subject CLECs to an enforcement mechanism that compels them to follow the procedures, then there should not be any problem.<sup>136</sup>

Sprint/United offers cost studies for the inside wire<sup>137</sup> UNEs based on two configurations: (1) interbuilding configuration – building addition or campus scenario and (2) intrabuilding configuration – multi-business or high rise scenario.<sup>138</sup> For each scenario, “[t]he costs were based on an analysis of the type of cable used within Sprint’s territory and current material and labor costs for the cable and installation.”<sup>139</sup> Sprint/United’s cost study provides that nonrecurring charges will be developed based on specific site needs because of the variable nature of inside wire.<sup>140</sup> Although each location is unique, Sprint/United must present forward-looking cost studies for inside wire based on past inside wire expenses and projected future costs.

In light of the foregoing, the Directors unanimously voted to:

1. Order Sprint/United to file a cost study consistent with the Authority’s decisions on this issue, including CLECs’ access to its inside wire subloop, within 30 days of the entry of the Authority’s written order;
2. Order that if BellSouth chooses to protect its network and refuse direct access to unbundled subloop elements, BellSouth must construct and maintain intermediate access to the subloops at its own expense;

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<sup>135</sup> See *id.* at 212.

<sup>136</sup> See *id.*, v. II-E, pp. 282-88.

<sup>137</sup> Sprint/United defines inside wire in accordance with FCC Rule 51.319(a)(2)(i), which states:

Inside wire is defined as all loop plant owned by the incumbent LEC on end-user customer premises as far as the point of demarcation as defined in § 68.3 of this chapter, including the loop plant near the end-user customer premises. Carriers may access the inside wire subloop at any technically feasible point including, but not limited to, the network interface device, the minimum point of entry, the single point of interconnection, the pedestal, or the pole.

47 C.F.R. § 51.319(a)(2)(i); see *Inside Wire Cost Study – Methods United Telephone-Southeast, Inc.*, p. 3 (Apr. 16, 2001).

<sup>138</sup> See *Inside Wire Cost Study – Methods United Telephone-Southeast, Inc.*, p. 4 (Apr. 16, 2001).

<sup>139</sup> See *id.* at 5.

<sup>140</sup> See *id.* at 6.

3. Order the parties to negotiate procedures by which CLECs can notify BellSouth of any change made to BellSouth's network. Proposed procedures should be filed within 45 days of the entry of the Authority's order and should include, but should not be limited to, all issues related to network safety and security, inventory control, and performance measures; and

4. Order that if a CLEC chooses to reject the negotiated procedures addressing BellSouth's network safety and security concerns, or wants to protect its equipment, it can construct and maintain, at its own expense, an intermediate terminal for its exclusive use to access the subloops.

**23. Should BellSouth utilize the AT&T/MCI Physical Collocation Model, as adopted by the Authority, when deriving costs for collocation elements proposed in this proceeding?**

BellSouth proposed rates for physical collocation in the remote terminal.<sup>141</sup> In the Authority's January 25, 1999 Order in the Permanent Prices Docket, the Authority adopted the AT&T and MCI collocation approach for calculating the rates for physical collocation.<sup>142</sup> Further, the Authority adopted BellSouth's proposed collocation rates for virtual collocation and later decided to take no further action on the issue of collocation.<sup>143</sup> In response to the Authority's July 23, 2001 Data Request, AT&T informed the Authority as follows:

[T]he AT&T/MCI Collocation Model does not currently produce rates for the collocation elements listed in BellSouth's cost study in this proceeding as Cost Reference No. H.0 and H.3 and H.6[.]. The model could be adapted to produce such rates, but AT&T does not have any plans at this time to adapt the model to produce such rates.<sup>144</sup>

Based on the Authority's previous rulings and AT&T's response, the Directors unanimously voted to adopt BellSouth's proposed rates for collocation elements, that is, Cost Reference Nos. H.3 and H.6, and to inform the parties that rates for physical collocation adopted in this docket

<sup>141</sup> See *BellSouth Telecommunications, Inc. Unbundled Network Element Cost Study*, Executive Summary, p. xii (Oct. 2, 2000) (Public Version).

<sup>142</sup> *Permanent Prices, Interim Order on Phase I of Proceeding to Establish Prices for Interconnection and Unbundled Network Elements*, p. 41 (Jan. 25, 1999).

<sup>143</sup> See *id.*, *Final Order*, p.12 (Feb. 23, 2001).

<sup>144</sup> AT&T's Response to Staff's Data Request, p. 1 (Aug. 6, 2001).

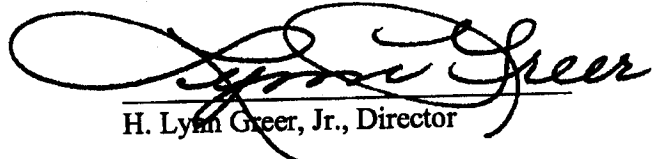
can be revisited in the future if reconsidered by the Authority or if AT&T and MCI update the physical collocation model adopted by the Authority in the Permanent Prices Docket.

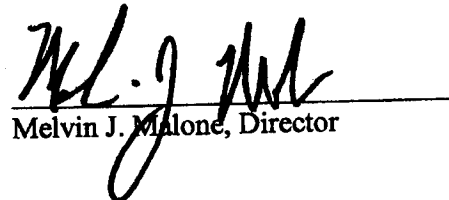
**IT IS THEREFORE ORDERED THAT:**

1. The decisions set forth herein are unanimously adopted by the Directors of the Tennessee Regulatory Authority.

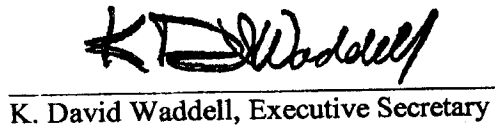
2. Any party aggrieved by this Order may file a Petition for Reconsideration pursuant to Tenn. Code Ann. § 4-5-317 with the Tennessee Regulatory Authority within fifteen (15) days of the entry of this Order.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary





**EXHIBIT NO. AWG -10**  
**DC Power Architecture**

## Central Office DC Power Architecture Used for Collocation

Central Office DC power architecture for collocation is shown in the following block diagram.

**Central Office  
Power System  
Block Diagram**

